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RASHELLE HOBBS
Recorder, Salt Lake County, UT
MILLER HARRISON LLC
BY: eCASH, DEPUTY - EF 43 P.

**AMENDED AND RESTATED
DECLARATION OF CONDOMINIUM
FOR
ALPHAGRAPHS BUILDING CONDOMINIUMS**

a Utah Condominium Project

**AMENDED AND RESTATED DECLARATION OF CONDOMINIUM
FOR
ALPHAGRAPHS BUILDING CONDOMINIUMS**

THIS AMENDED AND RESTATED DECLARATION OF CONDOMINIUM FOR ALPHAGRAPHS BUILDING CONDOMINIUMS (the “**Declaration**”) is executed and adopted by the Management Committee on behalf of the Owners and is effective as of the date it is recorded in the Salt Lake County Recorder’s Office.

RECITALS

- A. This Declaration affects the real property located in Salt Lake County, described with particularity on Exhibit A (the “**Project**”), which exhibit is attached hereto and incorporated herein by reference and shall be binding on all parties having or acquiring any right, title, or interest to the Project or any part thereof.
- B. The Project was originally made subject to the *Declaration of Condominium and Bylaws for Alphagraphics Building Condominiums*, recorded in the office of the Salt Lake County Recorder on June 26, 2002 as Entry No. 8275535, in Book 8613, and beginning at Page 2047 (the “**Enabling Declaration**”).
- C. This *Amended and Restated Declaration of Condominium for Alphagraphics Building Condominiums* is adopted to: (1) clarify and define the rights of the Associations and the Owners, in and to the Project, (2) conform to changes to the Utah Condominium Ownership Act and other Utah law, (3) provide for a general plan for managing the Project, and (4) in furtherance of the effort to protect and enhance the value of the Project.
- D. This Declaration, which (along with and subject to any future amendments) shall be the sole declaration for the Project and shall completely replace and supersede in all respects the Enabling Declaration and all prior declarations and amendments thereto, (whether recorded or not, properly adopted or not, or referenced in this Declaration or not), prior to the date of the recording of this Declaration.
- E. The Bylaws of the Association attached hereto as Exhibit B supersede and replace any previous bylaws of the Association and any amendments thereto.
- F. Pursuant the amendment requirements contained in Section 12 of the Enabling Declaration, the undersigned hereby certifies that this Declaration and Bylaws were approved by Owners holding at least sixty-seven percent (67%) of the Undivided Interests.
- G. Pursuant the amendment requirements contained in Section 12.2 of the Enabling Declaration, the undersigned hereby certifies that this Declaration and Bylaws were approved by Eligible Mortgagees holding Mortgages on Units which have appurtenant at least fifty-one percent (51%) of the Undivided Interests subject to Mortgages.

NOW, THEREFORE, for the reasons recited above and subject to the covenants, conditions and restrictions set forth below, the Association hereby amends and replaces the Enabling Declaration for the Project and states and declares as follows:

ARTICLE I DEFINITIONS

As used herein, unless the context otherwise requires, the following terms and phrases shall have the meaning stated:

1.1 "Act" means the Utah Condominium Ownership Act, §§ 57-8-1, *et seq.*, Utah Code Annotated, as amended on or after the date of this Declaration, and any successor or substitute statute.

1.2 "American Stores Agreement" means the Agreement of Right-of-Way and Easements, dated March 29, 2001 and recorded April 5, 2001 as Entry No. 7863200 in Book 8442 at Page 8978 of the Official Records.

1.3 "Association" means The Plaza Master Association (or other nonprofit entity formed by the Owners for the governance of the Project), the membership of which shall include each Owner of a Unit in the Project, as required by the Act. The Association shall be incorporated as a Utah nonprofit corporation.

1.4 "Atriums" means the two atriums of the Building shown on the Record of Survey Map, one of which is located in the Northeast corner of the Building, and the other of which is located in the Southwest corner of the Building.

1.5 "Building" means the building containing the Units and comprising a portion of the Project, which has five (5) stories above ground and one basement level having below grade vehicular access. The principal materials of which the Building is constructed are concrete, steel, stone and glass fiber-reinforced concrete.

1.6 "Bylaws" mean the Bylaws of the Association as attached hereto as Exhibit B, as the same may be amended from time to time. No amendment to the Bylaws shall be effective until it is recorded.

1.7 "Commercial Units" means the three (3) commercial units comprising a portion of the Project, designated as Units C-1 through C-3, inclusive, and shown on the Record of Survey Map, each of which is a Convertible Space. The number of Commercial Units may be increase through a valid conversion as set forth in Article XI.

1.8 "Common Areas" means the following:

(a) the Land, together with all rights, titles, interests and obligations appurtenant to the Land under the American Stores Agreement;

(b) the foundations, columns, girders, beams, supports, main walls, floors, ceilings windows, exterior doors (excluding only partitions within any individual Unit and the interior surface of the walls, floors, ceilings, windows and doors forming the perimeter boundaries of each Unit), roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances and exits of the Building;

(c) the yards, gardens and landscaped areas (including, without limitation, the wallscape and landscape contemplated by Paragraph 2.2 of the American Stores Agreement);

(d) the premises or space, if any, for lodging or exclusive use of janitors or Persons in charge of the Project;

(e) installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning and incinerating;

(f) the elevators, tanks, pumps, motors, fans, compressors, pipes, vents, ducts, shafts, flues, chutes, conduits, wires and, in general, all apparatus and installations existing for common use;

(g) those portions of the Units which become Common Areas pursuant to Section 9.6; and

(h) all other parts of the Project necessary or convenient to its existence, maintenance and safety or normally in common use or shown on the Record of Survey Map as Common Areas, including all parts of the Project other than the Units and the Limited Common Areas.

(i) Unless otherwise set forth in a joint maintenance agreement between the Association and the Residential Association, the costs incurred for the maintenance, repair, and replacement of the Common Areas shall be apportioned to Units according to the undivided interests set forth in this Declaration.

1.9 "Common Expenses" means:

(a) all sums lawfully assessed against the Unit Owners;

(b) expenses of operation (including utilities and services), management, maintenance, repair and-replacement of the Common Areas and any Limited Common Areas that the Association is required to maintain, including a reasonable reserve for the periodic maintenance, repair and replacement of the Common Areas and Limited Common Areas; provided, however, that to the extent reasonably possible:

(i) expenses and reserves relating to the Roof Plaza and bathroom located on the fourth floor shall be allocated fairly and equitably, as determined by the Residential Association, among the Residential Unit Owners only (and shall not be borne by any other Owners);

(ii) expenses and reserves relating to the balconies located adjacent to the Residential Units shown as Limited Common Areas on the Record of Survey Map shall be allocated fairly and equitably on a pro rata basis among the Owners of those Residential Units only (and shall not be borne by any other Owners);

(iii) expenses and reserves relating to the Atriums shall be allocated fairly and equitably on a pro rata basis among the Owners of those Units to which the Atriums are appurtenant only (and shall not be borne by any other Owners);

(iv) expenses and reserves relating to the below grade vehicular access rights through the parking terrace adjacent westerly to the Project, set forth in the American Stores Agreement, the vehicular driveways within the Project accessing and servicing the Parking Units and Storage Units and the other areas within the underground parking area shown as Limited Common Areas on the Record of Survey Map, may be paid by the Association, but shall be allocated fairly and equitably on a pro rata basis among the Owners of the Parking Units and Storage Units only (and shall not be borne by any other Owners); and

(v) expenses and reserves relating to the roofs directly above the Residential Units shall be allocated fairly and equitably, as determined by the Residential Association, among the

Residential Unit Owners only (and shall not be borne by any other Owners), the expenses and reserves relating to all other roof areas, weatherproofing, and water drainage facilities of the building (including the removal and replacement of pavers and landscaping, if necessary to access these facilities) shall be a Common Expense allocated to all Owners;

(c) the cost of culinary water, sewer, gas, electric, and other utilities provided to all of the Units, if not separately metered;

(d) premiums for the insurance obtained by the Management Committee pursuant to Article VIII;

(e) any other cost, expense or fee properly incurred by the Management Committee in connection with the performance of its obligations under the Governing Documents including, without limitation, accountants', attorneys' and other professionals' fees and costs incurred by the Management Committee in connection with the enforcement of, or the performance of its obligations under, this Declaration;

(f) other expenses agreed on as common expenses by a Majority of the Owners;

(g) other expenses declared common expenses by the Act or this Declaration; and

(h) Common Expenses due but not paid to the Association which are determined by the Management Committee not to be legally or practicably recoverable (after reasonable effort) from the responsible Owner, together with all interest on, and costs and attorneys' fees incurred in connection with, such unpaid Common Expenses.

(i) the following expenses shall not be considered Common Expenses of the Association: rental expenses or commissions incurred by individual Unit Owners, depreciation of property not owned by the Association, taxes on property not owned by the Association, wages, travel, meals, and other expenses of persons not employed by the Association, advertising expenses for Unit Owners, interest or loan fees for loans not incurred by the Association, and any other expense that is incurred for the benefit of one or more Unit Owners, but not for the benefit of all Unit Owners in the Project.

(j) Common Expenses may be allocated differently from the undivided interests set forth herein, if the Association and Residential Association enter into an agreement for the allocation thereof.

1.10 "Condominium" means a Unit together with the Limited Common Areas appurtenant thereto, if any, and the Undivided Interest appurtenant to such Unit.

1.11 "Convertible Space" means a portion of the Building, which portion may be converted into one or more Units, Common Areas and/or Limited Common Areas in accordance with Section 11.2 of this Declaration. Each Commercial Unit is a Convertible Space.

1.12 "Eligible Insurer or Guarantor" means an insurer or governmental guarantor of a Mortgage that has requested a right to inspect certain Association documents in accordance with Article X.

1.13 "Eligible Mortgagee" means a Mortgagee that has requested the right to inspect certain Association documents in accordance with Article X.

1.14 "Existing Documents" means the following, as amended on or after the date of this Declaration: (a) the Special Warranty Deed, dated February 1, 2001 and recorded February 8, 2001

as Entry No. 7817353 in Book 8422 at Page 8702 of the Official Records; (b) the Block 57 Master Plan, revised June 1992; and (d) the Declaration of Covenants, Conditions, Restrictions and Easements Pertaining to a Portion of the Surface of Block 57, Salt Lake City, Utah, dated June 30, 1995 and recorded July 3, 1995 as Entry No. 6113370 in Book 7180 at Page 1501 of the Official Records, as amended on or after the date of this Declaration.

1.15 "Governing Documents" means the Act, this Declaration, the Record of Survey Map, the Bylaws, the Rules and Regulations and the Existing Documents, as applicable.

1.16 "Land" means the real property located in Salt Lake County, Utah, as described in Exhibit A attached hereto.

1.17 "Limited Common Areas" means those Limited Common Areas designated in this Declaration or on the Record of Survey Map as reserved for the use of one or more Units to the exclusion of the other Units. The Limited Common Areas include, without limitation, the following:

(a) the Atriums, each of which is reserved for the exclusive use of the Owner(s) of, and is appurtenant to, that portion of Unit C-1 abutting the Atrium concerned; provided, however, that if the majority (by square footage) of Unit C-2 or the majority (by square footage) of Unit C-3 is owned or occupied by the same Person; such Person may, subject to the prior written approval of the Management Committee, place business name signage on the "exterior" walls of the Building enclosed within the Atriums;

(b) the Roof Plaza, including the landscaping, heated sidewalks, and tile paver system, which is reserved for the exclusive use of the Owners of, and is appurtenant to, the Residential Units;

(c) the balconies located adjacent to the Residential Units shown as Limited Common Areas on the Record of Survey Map, which balconies are reserved for the exclusive use of the Owners of, and are appurtenant to, each Residential Unit;

(d) the vehicular access rights through the parking terrace adjacent westerly to the Project set forth in the American Stores Agreement, and the below grade vehicular driveways within the Project accessing and servicing the Parking Units and Storage Units, which rights and driveways are reserved for the exclusive use of the Owners of, and are appurtenant to, the Parking Units and Storage Units, and may also be used by any Persons to whom such Owners have properly granted the use of any Parking Units or Storage Units pursuant to a lease, rental agreement, license or other similar instrument;

(e) each area shown as Limited Common Areas on the Record of Survey Map and located between or adjacent to one or more of the Parking Units, each of which areas is reserved for the exclusive use of the Owner(s) of, and is appurtenant to, the Parking Units abutting the area concerned;

(f) any Limited Common Areas created in accordance with Section 3.9, which shall be reserved for the exclusive use of the Owner(s) of, and shall be appurtenant to, the adjoining Units concerned; and

(g) the vestibule outside the elevator on the fourth floor, the bathrooms on the fourth floor, the exterior lighting of Residential Units, and the stairways located between the fourth and third floors shall all be reserved for the exclusive use of the Residential Unit Owners.

(h) the roofs located directly above the Residential Units are Limited Common Areas that shall be exclusively managed and maintained by the Residential Association.

In addition, all shutters, awnings, window boxes, doorsteps, porches, balconies, patios or other apparatus intended to serve a single Unit, but located outside the boundaries of the Unit, shall constitute Limited Common Areas appurtenant to that Unit exclusively. Structural separations between Units or the space which would be occupied by such structural separations may become Limited Common Areas for the exclusive use of the Owner(s) of the Units on either side of such separations or space as provided in Section 3.9.

1.18 "Majority of the Owners" means the Owners of more than fifty percent (50%) in the aggregate of the Undivided Interests.

1.19 "Management Committee" means the Management Committee of the Association elected pursuant to the Bylaws and serving as the management body of the Association.

1.20 "Management Committee Member" shall mean a duly qualified and elected or appointed member of the Management Committee of the Association. The number, term, and other qualifications of Management Committee Members shall be set forth in the Bylaws.

1.21 "Mortgage" means a mortgage, a deed of trust and any indenture secured by a security interest on any Condominium.

1.22 "Mortgagee" means a mortgagee under a mortgage, a beneficiary under a deed of trust and a beneficiary under any indenture secured by a security interest on any Condominium.

1.23 "Official Records" means the official records of the Salt Lake County Recorder, State of Utah.

1.24 "Owner" means the Person(s) owning each Condominium in fee simple, as shown in the Official Records, subject to the provisions of this Declaration.

1.25 "Parking Units" means the fifty-four (54) parking stalls comprising a portion of the Project, designated as Units P-1 through P-54, inclusive, and shown on the Record of Survey Map.

1.26 "Person" means an individual, corporation, partnership, limited liability company, association, trustee or other legal entity capable of holding title to real property.

1.27 "Project" means the Land, the Building and all other structures and improvements constructed on the Land on or after the date of this Declaration and all easements, rights and appurtenances belonging to, and all articles of personal property (other than personal property owned by individual Owners) intended for use in connection with, the Land, the Building or any other structures or improvements on the Land. The Project is comprised of the Units, the Common Areas and the Limited Common Areas described in Exhibit A.

1.28 "Record of Survey Map" means the Record of Survey Map, recorded in the Official Records, entitled "AlphaGraphics Building Condominiums," as the same may be amended. The Record of Survey Map is hereby incorporated into and made an integral part of this Declaration, and all requirements and specifications set forth on the Record of Survey Map and required by the Act are deemed included in this Declaration. If any conflict exists between the Record of Survey Map and this Declaration, the Declaration shall control.

1.29 "Residential Association" means The Plaza Homeowners Association, the membership of which shall include each Owner of a Residential Unit in the Project. The

Residential Association shall be incorporated as a Utah nonprofit corporation, which if invalidated for any reason, may be reincorporated at the discretion of its Board of Directors. The Residential Association is formed exclusively for the Owners of the Residential Units and all organizational documents thereof shall be subordinate to the provisions of this Declaration.

1.30 "Residential Association Bylaws" means the bylaws adopted by the Residential Unit owners and Residential Association, as may be amended from time to time.

1.31 "Residential Common Areas" means the Common Areas located on the fourth floor or above that are designed and intended for the exclusive use and benefit of the Residential Unit Owners. The Residential Common Areas shall include the Roof Plaza pavers, landscaping, outdoor lighting, furniture, exterior wall surfaces, and all other parts of the Project necessary or normally in common use of the residential Unit Owners. Notwithstanding the foregoing, all of the building's elevator systems, atriums, parapet walls, stairways, shared mechanical systems, roofing membranes, drainage systems, and roof structural components shall be considered general Common Areas.

1.32 "Residential Units" means the nine (9) residential units comprising a portion of the Project, designated as Units 410 through 418, inclusive, and shown on the Record of Survey Map.

1.33 "Roof Plaza" means the landscaped and otherwise improved plaza on the fourth floor of the Building, having, among other things, planters, a spa and walking and sitting areas, shown as Limited Common Areas on the Record of Survey Map and being appurtenant to the Residential Units only. The Roof Plaza does not include the balconies located adjacent to the Residential Units. The Roof Plaza does not include the structural components of the building roof and the associated waterproofing membrane and drainage system.

1.34 "Rules and Regulations" means the rules and regulations for the Project adopted by the Management Committee from time to time in accordance with this Declaration, as such rules and regulations may be amended from time to time.

1.35 "Size" means the number of square feet of floor space within each Unit as computed by reference to the Record of Survey Map and rounded off to a whole number. The Size of each Unit is set forth in Section 3.1.

1.36 "Storage Units" means the four (4) storage units comprising a portion of the Project, designated as Units S-1 through S-4, inclusive, and shown on the Record of Survey Map.

1.37 "Undivided Interest" means an undivided interest, expressed as a percentage, in the Common Areas made appurtenant to each Unit by the provisions of this Declaration, as set forth in Section 3.1.

1.38 "Unit" means each separate physical part of the Project intended for any type of independent use, including one or more spaces located in one or more floors or parts of floors in the Building. Initially, the Units are comprised of the following, a) as depicted on the Record of Survey Map: the Commercial Units; the Parking Units; the Residential Units; and the Storage Units.

(a) Each Commercial Unit, Residential Unit and Storage Unit is comprised of an individual air space unit, consisting of enclosed rooms or spaces occupying part of the Building and bounded by the interior surfaces of the walls, floors, ceilings, windows and doors along the perimeter boundaries of such air space, together with all fixtures and improvements contained

within such air space. Paint and other wall, ceiling and floor coverings on interior surfaces shall be deemed to be a part of the Unit concerned. Notwithstanding the fact that they may be within the boundaries of such air space, the following are not part of a Unit insofar as they are necessary for the support or the use and enjoyment of another Unit, and shall be part of the Common Areas: bearing walls, floors, ceilings (except the interior surfaces of walls, floors and ceilings), roofs, foundations, ceiling equipment, tanks, pumps, motors, fans, compressors, pipes, vents, ducts, shafts, flues, chutes, conduits, wires and other utility installations, except the outlets of any of the foregoing when located within a Unit. The interior surface of a window or door means the location of such surface when such window or door is closed.

(b) Each Parking Unit is comprised of an individual air space having the following boundaries:

(i) base: the plane of the upper surface of the concrete flooring;

(ii) sides: a plane perpendicular to the base which runs from the base to the ceiling along the center of the full length of each painted line delineating the side of the Unit, or in those cases where a painted line is not used to delineate the side of the Unit or a portion of the side of the Unit, the plane of the surface of the concrete facing such Unit;

(iii) front and rear: a plane perpendicular to the base which runs from the base to the ceiling along the center of the full length of each painted line delineating the front or rear of the Unit, or in those cases where a painted line is not used to delineate the front or rear of the Unit or a portion of the front or rear of the Unit, the plane of the surface of the concrete facing such Unit or the plane of an imaginary line extending horizontally from the end of one side line to the end of the other side line and extending vertically to the ceiling of the Unit; and

(iv) ceiling: the plane of the lower surface of the concrete above the Unit and, if applicable, the plane of the other surfaces of any beam or beams or other similar structures above the Unit.

ARTICLE II SUBMISSION

2.1. Name and Location. The Project is known as the Alphagraphics Building Condominiums. The Land and the Building and the construction and alteration of all of improvements thereon shall be in accordance with this Declaration and the Record of Survey Map.

2.2. Submission to Act. The Association and Unit Owners confirm that the Project is submitted to the Act. The Association hereby declares that the Project and all of the Units shall be held, conveyed, transferred, sold, mortgaged, encumbered, occupied, used, and improved subject to the Declaration, which shall constitute covenants and conditions running with the land and shall be binding upon and inure to the benefit of the Association, and each Owner, including their respective heirs, executors, administrators, personal representatives, successors, and assigns.

2.3. Interpretation of Declaration and Applicability of the Act. The Association intends that the Project shall be governed by the Act, except where the Association has included specific provisions in this Declaration that legally vary, supersede, or supplement the Act, in which event such specific provisions of this Declaration that are contrary to the Act shall govern the Project to the extent allowed by the Act.

2.4 Registered Agent. The Registered Agent, as listed with the Utah State Department of Commerce, Division of Corporations and Commercial Code, shall be the person to receive service of process for the Association pursuant to § 57-8-10(2)(d)(iii) of the Act, unless such time as the Management Committee duly appoints a new agent. The Management Committee may change the Registered Agent at any time and without the need for Owner consent.

**ARTICLE III
THE CONDOMINIUM PROJECT**

3.1. Division of Project. The Project is divided into Condominiums, each such Condominium consisting of a Unit, appurtenant Limited Common Areas, if any, and an appurtenant Undivided Interest, as follows:

Commercial Units

<u>Unit</u>	<u>Size</u>	<u>Undivided Interest</u>
C-1	16,643 square feet	19.03%
C-2	21,451 square feet	24.53%
C-3	21,451 square feet	24.53%

Parking Units

<u>Unit</u>	<u>Size</u>	<u>Undivided Interest</u>
P-1 through P-54	149 square feet (approx.)	0.17% each

Residential Units

<u>Unit</u>	<u>Size</u>	<u>Undivided Interest</u>
410	1,550 square feet	1.87%
411	1,490 square feet	1.79%
412	2,342 square feet	2.82%
413	2,346 square feet	2.82%
414	2,083 square feet	2.51%
415	2,086 square feet	2.51%
416	1,458 square feet	1.75%
417	2,086 square feet	2.51%
418	2,300 square feet	2.77%

Storage Units

<u>Unit</u>	<u>Size</u>	<u>Undivided Interest</u>
S-1	520 square feet	0.59%
S-2	344 square feet	0.39%
S-3	63 square feet	0.11%
S-4	256 square feet	0.29%

3.2. Nature of Condominiums. Each Condominium shall for all purposes constitute real property, shall have the same incidents as real property, may be individually conveyed, leased, encumbered, inherited or devised by will and shall be subject to all types of juridic acts *inter vivos*

or *mortis causa* as if it were sole and entirely independent of all other Condominiums, and the corresponding individual titles and interests in each Condominium shall be recordable. Any Condominium may be held and owned by more than one Person as joint tenants, as tenants in common or in any other real property tenancy relationship recognized under the laws of the State of Utah. Each Owner shall be entitled to the exclusive ownership and possession of its Unit and, to the extent applicable, any Limited Common Areas appurtenant to its Unit. Each Owner may separately mortgage or otherwise encumber its Condominium, provided that each Mortgage of any Condominium shall be subordinate to this Declaration. No Owner may mortgage or otherwise encumber the Common Areas, except to the extent of the Undivided Interest appurtenant to its Unit.

3.3. Nature of Undivided Interests. Each Owner shall be entitled to an Undivided Interest in the percentages expressed in Section 3.1, which Undivided Interests are allocated proportionate to the Size of each Unit. Each Owner may use the Common Areas on a nonexclusive basis, but only in accordance with the purposes for which they were intended without hindering or encroaching on the lawful rights of the other Owners, and only in a manner which is consistent with their community nature and with the use and other covenants, conditions and restrictions applicable to the Units under the Governing Documents. Except as otherwise provided in this Declaration, each Owner shall have the right to use and enjoy any Limited Common Areas appurtenant to its Unit exclusive of other Owners to whose Units such Limited Common Areas are not appurtenant. Neither the Undivided Interest nor the right of exclusive use of any Limited Common Areas may be separated from the Unit to which they are appurtenant. Except as otherwise expressly provided by the Act or Section 11.2 pertaining to the conversion of Convertible Spaces, the Undivided Interest of each Owner as described in this Article shall have a permanent character and shall not be altered without the consent of two-thirds (2/3) of the Owners expressed in an amendment to this Declaration duly approved, executed and recorded in the Official Records. The Common Areas and Limited Common Areas shall remain undivided and no Owner or other Person shall bring any action for partition or division of any part of the Common Areas or Limited Common Areas, unless the Project has been removed from the provisions of the Act in accordance with Section 12.3 or as otherwise provided in the Act. Any covenants to the contrary shall be null and void. The common profits, if any, of the Project shall be distributed among, the Common Expenses shall be charged to, and the voting rights shall be available to, the Owners according to their respective Undivided Interests.

3.4. Use Restrictions.

(a) The Commercial Units are intended exclusively for office, retail or other commercial uses commonly found in first-class commercial developments, the Parking Units are intended exclusively for the parking of motor vehicles, the Residential Units are intended exclusively for residential use, and the Storage Units are intended exclusively for storage use, and all such Units are restricted to such uses, respectively. The Residential Units may not be (i) placed in a rental pool, (ii) rented or leased for transient purposes, or (iii) rented or leased for weekly, monthly or any other periods shorter than twelve (12) consecutive months. The Residential Units may only be rented or leased to one or more Persons who intend to, and do in fact, occupy the Unit concerned as the residence of such Person(s) for a period of at least twelve (12) months. No hazardous substances, hazardous wastes, pollutants or contaminants may be placed in any Storage Unit at any time. The Project is also subject to all restrictions set forth in the Existing Documents.

(b) No Owner shall do or permit anything to be done in its Unit which may do any of the following: (i) increase the existing rate or violate the provisions of any insurance carried with respect to the Project; (ii) create a public or private nuisance, commit waste or unreasonably interfere with, annoy or disturb any other Owner or occupant of the Building; (iii) overload the floors or otherwise damage the structure of the Building; (iv) violate any present or future law, ordinance, regulation or requirement, including, without limitation, those relating to hazardous substances, hazardous wastes, pollutants or contaminants, those relating to access by disabled Persons and the requirements of any board of fire underwriters or other similar body relating to the Project; (v) lower the first-class character of the Project; or (vi) otherwise detract from the appearance or value of the Project.

(c) No portion of the Project shall be used for any of the following uses: (i) a dry cleaners with on-premises cleaning; (ii) a coin operated laundry; (iii) a thrift store, secondhand store or liquidation outlet; (iv) an establishment having nude or semi-nude dancing, entertainment or service providers or any other sexually oriented business; (v) a bowling alley; (vi) a flea market; (vii) a massage parlor, (viii) a funeral home; (ix) a facility for the sale of paraphernalia for use with illicit drugs; (x) a facility for the sale or display of pornographic or sexually explicit material, such as adult theaters or adult bookstores, as determined by community standards for the area in which the Project is located; (xi) an off-track betting parlor; or (xii) a facility for any use which is illegal.

(d) Each Owner shall indemnify, defend and hold harmless the Management Committee Members and each other Owner from and against any claim, liability, loss, damage, cost or expense (including attorneys' fees) caused by the failure to timely comply with any requirement of the Governing Documents by, or otherwise caused by any act or omission of, the indemnifying Owner, any tenant, employee, agent, licensee, guest or invitee of the indemnifying Owner, any employee, agent, licensee, guest or invitee of any tenant of the indemnifying Owner or any other Person using, occupying or visiting the Unit owned by the indemnifying Owner.

3.5. Improvement of Units. Subject to the provisions of this Section, each Owner shall have the exclusive right to paint, repaint, tile, paper, carpet and otherwise decorate the interior surfaces of the walls, ceilings, floors and doors forming the perimeter boundaries of its Unit and the surfaces of all walls, ceilings, floors and doors within such boundaries. Each Owner may also construct partition walls, fixtures and improvements within such boundaries; provided, however, that such walls, fixtures and improvements shall: (a) comply with all applicable laws, ordinances, codes, rules and regulations; (b) not interfere with facilities necessary for the support, use or enjoyment of any other part of the Project; (c) not impair the structural integrity of the Building; and (d) not encroach on or interfere with any Common Areas or Limited Common Areas, unless the Management Committee consents in writing to such encroachment. No Owner shall do any work or make any alterations or changes which would jeopardize the soundness or safety of the Project, reduce its value or impair any easement or hereditament, without in every such case the unanimous written consent of all the other Owners being first obtained. No Owner shall do any work on or make any alterations or changes to the Common Areas or Limited Common Areas without the prior written consent of the Management Committee.

Owners shall be liable for any and all damage and/or liability associated with any remodeling or maintenance work including damage to another Unit, any Common Area, or any Limited Common Area. Without prior written permission of the Management Committee, none of the following shall occur in any Unit remodeling: (1) any use of the Common Area for staging, storage, assembly, or construction; (2) the creation or implementation of any visual, audible, or aromatic nuisance or

any other nuisance that impacts on the use and enjoyment of any one or more of the other Units; (3) any blocking of the Common Area by vehicles, materials, or persons; or (4) any use of the Association's garbage and disposal facilities for the disposal of debris, materials, or other items related to the remodeling.

3.6. Maintenance of Units. Each Owner shall keep the interior of its Unit, including, without limitation, interior walls, window glass, ceilings, floors, fixtures and other improvements in good condition and repair and in a clean and sanitary condition. In addition, each Owner shall maintain in good condition and repair the window glass and doors forming or situated at the exterior boundary of its Unit and shall immediately repair or replace any such window glass or door on removal, breakage or other damage. If any Unit develops an unsanitary or unclean condition or falls into a state of disrepair and the Owner of such Unit fails to correct such condition promptly following written notice from the Management Committee, or if any removed, broken or damaged window glass or door referred to in the preceding sentence is not immediately repaired or replaced by the Owner obligated to do so, the Association may (but is not obligated to), at the expense of such Owner and without liability to such Owner for trespass or otherwise, enter the Unit concerned and correct or eliminate such unsanitary or unclean condition or such state of disrepair or repair or replace such window glass or door, as the case may be. Any funds expended by the Association pursuant to this Section, together with interest at the rate of eighteen percent (18%) per annum, both before and after judgment, and all costs of collection, including, without limitation, reasonable attorney fees, shall constitute a lien from and after the filing of a notice of lien with respect thereto on the Condominium concerned pursuant to Section 8.3, which lien may be foreclosed by the Association.

3.7. Separate Taxation. Each Condominium shall be considered to be a parcel and shall be subject to separate assessment and taxation by each assessing unit and special district for all types of taxes authorized by law, including but not limited to, ad valorem levies and special assessments. For purposes of such assessment and taxation, the valuation of the Common Areas shall be apportioned among the Units in proportion to their respective Undivided Interests, and all Limited Common Areas shall be taxed to the Owner(s) of the Unit(s) to which they are appurtenant. Neither the Project, the Building nor any of the Common Areas or Limited Common Areas may be considered as a separate parcel for purposes of assessment or taxation. All taxes, assessments and other governmental charges on each Condominium shall be separately levied against the Owner of such Unit, and no forfeiture or sale of any Condominium for delinquent taxes, assessments or other governmental charges shall divest or in any way affect the title to any other Condominium. In addition, no forfeiture or sale of the improvements or the Project as a whole for delinquent taxes, assessments or other governmental charges shall divest or in any way affect the title to an individual Unit if all taxes and duly levied shares of any assessments and charges on the individual Unit are currently paid. Any exemption from taxes that may exist on real property or the ownership of the Project may not be denied by virtue of the submission of the Project to the Act.

3.8. Certain Compliance; Rules and Regulations. Each Owner shall comply strictly with the covenants, conditions and restrictions set forth in this Declaration and in the deed to its Unit and with the Rules and Regulations, as the same may be amended from time to time. Failure to so comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Association, or in a proper case, by an aggrieved Owner. The Rules and Regulations may reasonably be amended from time to time by the Management Committee.

3.9. Right to Combine Units. After obtaining the prior written consent of the Management Committee, which consent shall not be unreasonably withheld, two or more Units may -be utilized by their Owner(s) as if they were one Unit. To the extent permitted and set forth in the consent given by the Management Committee, any walls, ceilings, floors or other structural separations between any such Units, or any space which would be occupied by such structural separations but for the utilization of such Units as one Unit may, for as long as such Units are utilized as one Unit, be utilized by the Owner(s) of the adjoining Units as Limited Common Areas, except to the extent that any such structural separations are necessary or contain facilities necessary for the support, use or enjoyment of other Units. After such Units cease to be used jointly, any opening between such Units which, but for joint utilization of such Units, would have been occupied by structural separation shall be closed at the equal expense of the Owner(s) of such Units and the structural separations between such Units shall thereupon become part of the Common Areas. Combining Units shall not in any way affect voting rights or Undivided Interests under this Declaration.

3.10. General Provisions. In interpreting the Record of Survey Map or any deed or other instrument affecting the Building or a Unit, the boundaries of the Building or such Unit constructed or reconstructed in substantial accordance with the Record of Survey Map shall be conclusively presumed to be the actual boundaries rather than the description expressed in the Record of Survey Map, regardless of the settling or lateral movement of the Building and regardless of any minor variance between the boundaries shown on the Record of Survey Map and those of the Building or such Unit.

ARTICLE IV EASEMENTS

4.1. Easements for Encroachments. If on or after the date of this Declaration:

(a) any part of the Common Areas or Limited Common Areas encroaches on any part of a Unit;

(b) any part of a Unit encroaches on any part of the Common Areas or Limited Common Areas; or

(c) any part of the Common Areas, the Limited Common Areas or a Unit encroaches on other real property located outside the boundaries of the Land, an easement for each such encroachment and for the maintenance of the same shall exist. Such encroachments shall not be considered to be encumbrances on any Unit, the Common Areas, the Limited Common Areas or such other real property. Such encroachments may include, without limitation, encroachments caused by error in the original construction of the Building or any other improvements constructed or to be constructed on the Land, error in the Record of Survey Map, settling, rising or shifting of the earth or changes in position caused by repair or reconstruction of the Project.

4.2. Easements for Maintenance. Some of the Common Areas or Limited Common Areas may be located within the Units or may be conveniently accessible only through the Units. The Association shall have the right to have access to each Unit (a) from time to time during reasonable hours and after reasonable notice to the occupant of the Unit being entered, as may be necessary for the maintenance, repair or replacement of any of the Common Areas or Limited Common Areas, and (b) for making emergency repairs necessary to prevent damage to the Common Areas, the Limited Common Areas or a Unit, provided that a reasonable effort is made

to provide notice to the occupant of the Unit prior to entry. As used in this Section and elsewhere in this Declaration, "emergency repairs" means any repairs which if not made in a timely manner will likely result in immediate and substantial damage to the Common Areas, the Limited Common Areas or a Unit, and "reasonable notice" means written notice which is hand delivered to the Unit Owner, or posted on the entry door to the Unit at least twenty-four (24) hours prior to the proposed entry.

4.3. Easements for Units. Each Owner shall have the right of ingress and egress on, over and across the Common Areas as necessary for access to and from its Unit and to any Limited Common Areas appurtenant to such Unit, and shall have the right to horizontal, vertical and lateral support of such Unit. Each Unit shall have easements in common with all other Units for the pipes, sprinklers, wires, ducts, flues, cables, conduits, public utility lines, transformer and switch gear vaults and other Common Areas from time to time and at any time located in any other Units and serving its Unit. Each Unit shall be subject to easements in favor of all other Units for the pipes, sprinklers, wires, ducts, flues, cables, conduits, public utility lines, transformer and switch gear vaults and other Common Areas from time to time and at any time located in such Unit and serving any other Unit. All of such pipes, sprinklers, wires, ducts, flues, cables, conduits, public utility lines, transformer and switch gear vaults and other Common Areas may be installed or moved as may be reasonably necessary for use by the benefited Unit, so long as such movement does not unreasonably interfere with the burdened Unit and is approved in advance by the Management Committee, and so long as any construction activities are performed in a good and workmanlike manner and are prosecuted diligently to completion. On completion of any such construction activities, the benefited Owner shall immediately restore any portion of the burdened Unit affected to the same condition as existed prior to the commencement of such construction activities, using the same (or better) type and quality of materials previously used.

4.4. Easements for Signage. An easement for signage on the parapet above the first floor of the Building is reserved in favor of the Owners of the Units located on the first floor of the Building; provided, however, that no sign, advertisement, notice or other lettering shall be exhibited, inscribed, painted or fixed at any location on the exterior of the Building, within the other Common Areas or at any location within any Unit visible from the Common Areas without the prior written consent of the Management Committee. The Management Committee shall, acting reasonably and in good faith, approve the location, type, quality, style, size, color and other characteristics of all signs, advertisements, notices and other lettering described in the immediately preceding sentence.

4.5 Utility Easement. Easements and rights-of-way over the Project for the installation and maintenance of electricity lines, telephone lines, cable television, water lines, gas lines, sanitary sewer lines, drainage facilities, and such other public utilities needed to serve the Project are hereby reserved to the Association, together with the right to grant and transfer the same; provided, however, such easements and rights-of-way shall not unreasonably interfere with the use of the Common Area and the Units by the Owners or occupants. The Association shall have the power to grant and convey, in the name of all of the Owners as their attorney-in-fact, to any other person easements and rights-of-way in, on, over or under the Common Area for the purpose of constructing, erecting, operating or maintaining lines, cables, wires, conduits, or other devices for electricity, cable television, power, telephone, public sewers, storm water drains and pipes, water systems, sprinkling systems, water heating and gas lines or pipes and any similar public or quasi-public improvements or facilities, and each Owner in accepting the deed to a Unit expressly

consents to such easements and rights-of-way and authorizes and appoints the Association as attorney-in-fact for such Owner to execute any and all instruments conveying or creating such easements or rights-of-way. However, no such easement can be granted if it would permanently and significantly interfere with the use, occupancy, or enjoyment by any Owner or such Owner's Unit.

4.6. General Provisions. Each easement and right created by this Article is an appurtenance to the real property benefited thereby and is a burden on the real property burdened thereby, and may not be transferred, assigned or encumbered except as an appurtenance to the benefited real property. For the purposes of each such easement and right, the benefited real property shall constitute the dominant estate and the burdened real property shall constitute the subservient estate. All conveyances of Condominiums shall be deemed to be made together with and subject to the easements set forth in this Article.

ARTICLE V ASSOCIATION & MEMBERSHIP

5.1. Establishment. The Association shall serve as the governing entity for all Owners. The Association shall make provisions for the maintenance, repair, replacement, administration, and operation of the Common Area and Common Expenses, and other matters as provided in the Governing Documents, the cost of which shall be part of the Common Expenses. The Association shall be vested with, and shall have the right, power and authority to exercise, all rights, powers and authority given to it under the Act and this Declaration.

5.2. Membership. Every Owner shall be a member of the Association so long as such Owner owns a Unit. Association membership shall automatically terminate when an Owner ceases to own a Unit. If title to a Unit is held by more than one Person, the membership appurtenant to that Unit shall be shared by all such Persons in the same proportional interest and by the same type of tenancy in which title to the Unit is held.

5.3. Voting. Except as otherwise disallowed in this Declaration or the Bylaws, Owners shall be entitled to vote their Undivided Interest pertaining to the Unit owned by that Owner at any meeting of the Owners. The vote attributed to each Unit shall be the Undivided Interest that is appurtenant to each Unit. For example, if the Undivided Interest that is appurtenant to a Unit is 2.82 percent, the Owner(s) of such Unit shall have 2.82 Votes. In the event there is more than one (1) Owner of a particular Unit, the vote relating to such Unit shall be exercised as such Owners may determine among themselves. A vote cast at any Association meeting by any of such Owners, whether in person or by proxy, shall be conclusively presumed to be the vote attributable to the Unit concerned unless an objection is immediately made by another Owner of the same Unit. In the event such an objection is made, the vote involved shall not be counted for any purpose whatsoever other than establishing a quorum.

5.4. Management Committee. The Management Committee shall be the managing body of the Association, elected pursuant to the Bylaws. Except where a matter or vote is specifically reserved to the Owners, the Management Committee shall act in all instances on behalf of the Association. Management Committee Members shall be required to meet all qualification requirements set forth in the Bylaws.

5.5. General Powers. The Management Committee shall have the responsibility and authority to make and enforce all rules covering the operation and maintenance of the Project. The

Management Committee shall have and is granted, the following irrevocable rights, authority and powers, in addition to all other rights, authority and powers existing or created on or after the date of this Declaration under the Governing Documents:

- (a) to have access to each Unit in accordance with Section 4.2;
- (b) to acquire and hold real and personal property of all types for the use and benefit of all of the Owners and to dispose of such property by sale or other method;
- (c) to obtain and pay for the services of such personnel as are necessary or appropriate for the proper operation, management, maintenance, repair and replacement of the Project;
- (d) to pay for utility and municipal services, insurance and other goods and services common to the Units;
- (e) without the vote or consent of the Owners, Mortgagees, insurers or guarantors of Mortgages or of any other Person, to grant or create, on such terms as it deems advisable, reasonable permits licenses, rights-of-way and easements over, under, across and through the Common Areas for utilities, roads and other purposes reasonably necessary or useful for the proper operation and maintenance of the Project, and to enter into reasonable amendments, modifications and supplements to the American Stores Agreement;
- (f) to execute and record, on behalf of the Owners, any amendment to this Declaration or the Record of Survey Map that has been approved by the vote or consent necessary to authorize such amendment;
- (g) to sue and be sued;
- (h) to enter into contracts that in any way concern the Project, to convey or transfer any interest in real property, to purchase, acquire and accept title to any interest in real property and to add any interest in real property so obtained to the Project, so long as any vote or consent necessitated by the subject matter of the agreement has been obtained;
- (i) to promulgate the Rules and Regulations set forth on the attached Exhibit B and other reasonable Rules and Regulations (whether similar or dissimilar to those set forth on the attached Exhibit B) as may be necessary or desirable to aid the Management Committee in carrying out any of its functions or to insure that the Project is maintained and used in a manner consistent with the Interests of the Owners and this Declaration;
- (j) to levy and collect general and special assessments for the payment of Common Expenses as provided in Article VII;
- (k) to make such use of the Common Areas and Limited Common Areas as may be necessary or convenient to perform the duties and functions that the Management Committee is obligated to perform pursuant to this Declaration; and
- (l) to perform any other acts and to enter into any other transactions which may be reasonably necessary for the Management Committee to perform its functions on behalf of the Owners.

Any instrument executed by the Management Committee that recites facts which, if true, would establish the Management Committee's right, power and authority to accomplish through such instrument what is purported to be accomplished by such instrument, shall conclusively establish

such right, power and authority in favor of any Person who in good faith and for value relies on such instrument.

5.6. Composition. The Management Committee shall be composed of no fewer than three (3) and no more than five (5) members as elected pursuant to the Bylaws. The total number of Committee members shall be set by resolution of the Committee. One Management Committee member shall at all times be a Residential Unit Owner. Management Committee members shall be elected at regular Owners' meetings and shall serve two (2) year terms. Only Owners and officers, partners, managers, members and agents of non-individual Owners shall be eligible for Management Committee membership. At each annual Owners' meeting the Undivided Interests appurtenant to a Unit may be voted in favor of as many candidates for Management Committee membership as there are seats on the Management Committee to be filled. On a vacancy prior to the expiration of the relevant term, the remaining Management Committee members shall elect a replacement to sit on the Management Committee until the expiration of the term for which the member being replaced was elected. Unless he forfeits or otherwise loses his seat as provided in this Declaration, a member shall serve on the Management Committee until his successor is elected and qualifies. Management Committee members shall be reimbursed for all expenses reasonably incurred in connection with Management Committee business provided that such expenses are first approved by the Management Committee.

5.7. Records. The Association shall maintain current copies of the Governing Documents and the Association's own books, records, and financial statements (as required by law) available for inspection, upon written request by any Owner. Any written request by an Owner to inspect and obtain copies of Association records shall be made in accordance with an subject to Utah Code Annotated Section 57-8-17 or any successor statute and the Association shall be entitled to collect from the requesting member the reasonable cost of the copies or electronic scans and for the time spent meeting with the unit owner as set forth in Utah Code Annotated Section 57-8-17. The Association shall also maintain detailed, accurate records in chronological order of the receipts and expenditures affecting the Common Areas and Limited Common Areas, specifying and itemizing the maintenance and repair expenses of the Common Areas and Limited Common Areas and any other expenses incurred. Such records and the vouchers authorizing the payments involved shall be available for examination by the Owners at convenient hours on weekdays. The Association shall maintain up-to-date records showing the following:

(a) the name of each Person who is an Owner, the address of such Person and the Unit that is owned by such Person;

(b) the name of each Person who is an Eligible Mortgagee, the address of such Person and the Unit that is encumbered by the Mortgage held by such Person; and

(c) the name of each Person who is an Eligible Insurer or Guarantor, the address of such Person and the Unit that is encumbered by the Mortgage insured or guaranteed by such Person.

On any transfer of a fee or undivided fee interest in a Unit, either the transferor or the transferee shall furnish the Management Committee with evidence establishing that the transfer has occurred and that the deed or other instrument accomplishing the transfer is of record in the Official Records. The Management Committee may for all purposes act and rely on the information concerning Owners and Unit ownership that is thus acquired by it or, at its option, the Management Committee may act and rely on current ownership information respecting any Unit that is obtained

from the Official Records. The address of an Owner shall be deemed to be the address of the Unit owned by such Owner unless the Management Committee is otherwise advised.

5.8. Professional Management. The Management Committee may (but is not obligated to) carry out through a professional manager any of its functions that are properly the subject of delegation. The professional manager so engaged shall be an independent contractor and not an agent or employee of the Management Committee, shall be responsible for managing the Project for the benefit of the Association and the Owners and shall, to the extent permitted by law and by the terms of the agreement with the Association, be authorized to perform any of the functions or acts required or permitted to be performed by the Management Committee itself.

5.9. Rules. The Management Committee may adopt, amend, repeal, enforce, and administer reasonable Rules for the regulation and operation of the Project. The Rules may address any issues including those addressed in this Declaration. The Rules may supplement, clarify, and add detail to issues otherwise addressed in this Declaration and the Bylaws so long as they do not contradict the same.

5.10. Reserve Fund. The Association shall maintain an adequate reserve fund for the maintenance, repair and replacement of the Common Area and any Limited Common Area which the Association has the duty to maintain. Reserve funds may be collected as part of the Regular Assessments. To the extent the Management Committee deems necessary, surplus monies of the Association may be retained as additional reserves rather than refunded to the Owners or credited to future Assessments.

5.11. Liability. No member of the Management Committee shall be liable to the Owners for any mistake of judgment, for negligence or on other grounds, except for such member's own willful misconduct or bad faith. Without limiting the generality of the immediately preceding sentence, and notwithstanding any provision of the Governing Documents to the contrary, neither the Management Committee, the Association, nor any Management Committee Member shall be liable for any loss, injury, death or damage (including any consequential damage) to Persons, property or business resulting from any theft, act of God, public enemy, injunction, riot, strike, insurrection, war, court order, requisition, order of governmental body or authority, fire, explosion, falling object, steam, water, rain, snow, ice, breakage, leakage, obstruction or other defects of pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures, construction, repair or alteration of the Project or other cause beyond such Person's reasonable control. The Owners shall indemnify, defend and hold harmless each Management Committee Member from and against all liability to third parties arising out of any contract made by the Management Committee on behalf of the Owners, unless such contract was made in bad faith.

5.12. Residential Association. The Residential Association shall be formed for the benefit of the Residential Unit Owners to permit the management of the Residential Units and appurtenant Limited Common Areas. The purposes of the Residential Association shall include, but shall not be limited to the following: (a) to provide a mechanism for the selection of one Management Committee Member to represent the Residential Unit Owners in all general and special Management Committee Meetings; (b) to provide a vehicle for separate meetings of Residential Unit Owners at which such Owners can discuss matters of mutual interest; (c) to create a body authorized to provide additional services to, and to make general and special assessments of, the Residential Unit Owners (only) for matters relating only to the Residential Units, any appurtenant Limited Common Areas and the Roof Plaza, to the extent desired by the Residential

Unit Owners; and (d) to create a body authorized to make additional rules and regulations, if desired, relating only to the Residential Units, any appurtenant Limited Common Areas and the Roof Plaza, which rules and regulations may not be less restrictive than, or otherwise conflict with, the rules and regulations established from time to time by the Management Committee. The Residential Association is specifically authorized to adopt rules and regulations governing pets, balcony storage, signage, the number of guests permitted to use the Roof Plaza, smoking, and any other issue that the Residential Association's operation of the Residential Units and the Limited Common Areas appurtenant thereto. The Residential Unit Owners may adopt a declaration of condominium and bylaws to govern their units, but the Residential Association and any governing documents adopted therefore, shall at all times be subject and subordinate to this Declaration and the Governing Documents of the Association. This Declaration reserves to the Management Committee the right to disapprove, veto and nullify, as it may deem to be reasonably necessary or appropriate, any action taken or proposed to be taken by the Residential Association, but only to the extent that such action is contrary to the provisions of this Declaration.

ARTICLE VI COMMON AREA

6.1. Common Areas and Limited Common Areas. The necessary work of operation, management, maintenance, repair and replacement of the Common Areas and assigned Limited Common Areas and the making of any additions or improvements to the Common Areas or assigned Limited Common Areas shall be the responsibility of the Association. The Association shall provide for such operation, management, maintenance, repair and replacement of the Common Areas and Limited Common Areas as may be reasonably necessary to make them appropriately usable in conjunction with the Units and to keep them clean, safe, functional, attractive and generally in good condition and repair. All Common Areas shall be maintained in the best interests of the Owners. The Association shall pay for all jointly metered utility services furnished to the Common Areas and Limited Common Areas. The Residential Association shall provide for the maintenance and repair of the Residential Common Areas, the roofs directly above the Residential Units, the balconies appurtenant to the Residential Units, and the Roof Plaza. Additions or capital improvements to the Project which cost no more than Ten Thousand Dollars (\$10,000) may be authorized by the Management Committee alone. Additions or capital improvements to the Project the cost of which will exceed such amount must, prior to being constructed or accomplished, be authorized by at least a Majority of the Owners. Any addition or capital improvement proposed to be made by the Management Committee that would materially alter the nature of the Project must, regardless of its cost and prior to being constructed or accomplished, be authorized by the unanimous vote of the Owners. The cost of compliance with this Section shall be part of the Common Expenses.

ARTICLE VII BUDGET AND ASSESSMENTS

7.1. Budget. The Management Committee shall prepare and adopt an annual budget for the Association that sets forth an itemization of the anticipated Common Expenses for the next following calendar year. Such budget shall take into account any deficit or surplus anticipated to be realized during the then current calendar year. The Management Committee may revise the budget from time to time as they deem appropriate. If the Management Committee fails to adopt

an annual budget, the last adopted budget shall continue in effect until the new annual budget is adopted. The budget shall be made available to Owners within thirty (30) days after adoption. Owners may disapprove a budget according to the provisions of the Act. The budget shall track and estimate the following Common Expenses in separate sub-categories within the total budget in order to allocate these expenses as set forth in Section 7.3 below.

(a) General Common Expenses. The General Common Expenses shall include all expenses incurred by the Association less the Parking and Storage Unit Expenses and the Residential Unit Expenses as described below.

(b) Parking and Storage Unit Expenses. The actual and estimated expenses incurred or to be incurred by the Association, which may include, but shall not be limited to: insurance, reserves, maintenance costs, or any other expenses incurred that solely benefit of the Parking and Storage Units and the basement floor area of the Building.

(c) Residential Unit Expenses. The actual and estimated expenses incurred or to be incurred by the Association (that are not already being paid for by the Residential Association), which may include, but shall not be limited to: insurance, reserves, maintenance costs, utilities, landscaping, snow removal, etc., or any other expenses incurred for the Residential Common Areas or that solely benefit the Residential Units and their appurtenant Limited Common Areas.

7.2. Covenant to Pay Assessments. Each Owner, by acceptance of a deed or other instrument creating in such Owner the interest required to be deemed an Owner, whether or not it shall be so expressed in any such deed or other instrument, is deemed to covenant and agree with each other Owner and with the Association to pay to the Association such Assessments to be fixed, established, and collected from time to time as provided in this Declaration. The Assessments, together with interest thereon, late fees, collection charges, attorney fees, court costs, and other costs of collection as hereinafter provided shall be secured by a continuing lien upon the Unit against which each such Assessment is made in favor of the Association. Each such Assessment, together with such interest, late fees, collection charges, costs and attorney fees, shall also be the personal obligation of the Owner of such Unit at the time the Assessment becomes due secured by the interest of the Owner in the Unit.

(a) In a voluntary conveyance, the grantee of a Unit shall be jointly and severally liable with the grantor for all unpaid Assessments, together with interest, costs, and reasonable attorney fees, if any, against the latter for his share of any Assessments authorized by this Declaration up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the grantor the amounts paid by the grantee.

(b) A lien to secure unpaid Assessments shall not be affected, canceled, or otherwise eliminated by the sale or transfer of the Unit unless foreclosure by a higher priority encumbrance is involved, in which case the foreclosure will extinguish the lien as required by law for any Assessments that were payable before the foreclosure sale, but shall not relieve any subsequent or successor Owner from paying further Assessments or from the lien of any future Assessments.

7.3. Assessments. the Management Committee shall notify each Owner of the estimated amount of its share of the Common Expenses for that calendar year as set forth in the relevant budget no less than fifteen (15) days prior to the beginning of the next calendar year.

Assessments shall be due and payable in monthly or quarterly installments on the first day of each calendar month the Assessment becomes due. At least fifteen (15) days prior to the effective date of any change in the amount of an Assessment, the Association shall give each Owner written notice of the amount. The Regular Assessments for the Association shall be calculated as follows:

(a) Regular Assessment. The Regular Assessment shall be paid by all Units within the Project that are subject to assessment. The Regular Assessment shall be computed by subtracting the expenses that are unique to each of the Unit types from the total Common Expenses of the Association and then allocating this figure to all Units in the Project according to their Undivided Interest. No later than one hundred twenty (120) days before the end of each calendar year, the Association shall deliver to the Residential Association a written statement supporting the Common Expenses allocated to Residential Units (“Residential Units Allocated Expenses”) in support of the Regular Assessment for the previous twelve months of expenditures. During any calendar year, a Residential Unit Owner shall be entitled to review, upon reasonable written request to the Association, all invoices, bills, and supporting documentation for the Residential Units Allocated Expenses in accordance with the procedure set forth in Section 5.7 of this Declaration.

(b) Parking and Storage Unit Assessment. The Parking and Storage Unit Assessment shall be paid by all Parking and Storage Units in addition to the Regular Assessment. The amount of the Parking and Storage Unit Assessment shall be determined by allocating the budgeted Parking and Storage Unit Expenses described in Section 7.1(b) to all Parking and Storage Units in proportion to their relative Undivided Interests.

(c) Residential Unit Assessment. The Residential Unit Assessment shall be paid by all Residential Units in addition to the Regular Assessment. The amount of the Residential Unit Assessment shall be determined by allocating the budgeted Residential Unit Expenses described in Section 7.1(c) to all Residential Units in proportion to their relative Undivided Interests.

7.4. Special Assessments. The Management Committee may at any time during any calendar year revise such budget or make a special assessment (which revision or special assessment shall be subject to the approval of a Majority of the Owners) and then alter the amount of the monthly payments or mandate a special assessment to be made by the Owners. Notice in writing of the amount of any Special Assessments and the time for their payment shall be given as soon as is reasonably possible to the Owners. Payment shall be due on the dates and in the manner determined by the Board and provided in the notice.

7.5. Individual Assessments. In addition to Annual and Special Assessments authorized above, the Management Committee may levy Individual Assessments against a Unit and its Owner to reimburse the Association for: (a) administrative costs and expenses incurred by the Management Committee in enforcing the Governing Documents; (b) costs associated with the maintenance, repair, or replacement of Common Areas caused by the neglect or actions of an Owner or his/her Occupants; (c) any other charge, fine, fee, expense, or cost designated as an Individual Assessment in the Governing Documents or by the Management Committee, including, without limitation, action taken to bring a Unit and its Owner into compliance with the Governing Documents; and (d) attorney fees, court or collection costs, fines, and other charges relating thereto as provided in this Declaration.

7.6. Allocation of Assessments. Except as otherwise provided herein, all Assessments (other than Individual Assessments) shall be imposed upon all Units according to their Undivided

Interests. Notwithstanding the foregoing, the Association and Residential Association may enter into a joint maintenance agreement to allocate certain utility costs or other maintenance costs to Unit Owners differently than the Undivided Interests.

7.7 Rules Regarding Billing and Collection Procedures. The Management Committee may establish and assess reasonable charges for delinquent payments of such monthly or special assessments. Unless otherwise set by the Management Committee in the Association's Rules, the following shall apply. A late fee of five percent (5%) of the unpaid amount shall be charged on all payments received more than ten (10) days late and interest shall accrue on all delinquent balances at the rate of eighteen percent (18%) per annum, both before and after judgment, until paid in full.

7.8 No Offsets. No Owner may exempt itself from liability for its contribution towards the Common Expenses by waiver of the use or enjoyment of any of the Common Areas or Limited Common Areas or abandonment of its Unit, and no offsets against such amount or withholding of any amount shall be permitted for any reason, including, without limitation, a claim that the Association is not properly exercising its duties and powers as provided in this Declaration. The failure of the Management Committee to give timely notice of any assessment shall not be deemed a waiver, modification or release of the obligation of any Owner to pay any assessment. No diminution or abatement of any assessments under this Declaration shall be claimed or allowed for inconvenience or discomfort arising from the making of any repairs or improvements to or maintaining the Project or from any action taken to comply with the Governing Documents or any applicable law, ordinance, rule, regulation or order.

7.9. Lien for Nonpayment. As set forth in this Article, every Owner shall pay its proportionate share of the Common Expenses in the amounts and at the times determined by the Management Committee in accordance with such provisions. Suit to recover a money judgment for unpaid Common Expenses is maintainable without foreclosing or waiving the lien securing it. The prevailing party in such action is entitled to recover its costs of suit and reasonable attorney fees. If any Owner fails or refuses to make any payment of the Common Expenses when due, the amount then or thereafter due (together with any applicable late charges and interest) shall constitute a lien on such Owner's Condominium, and on the recording of a notice of lien by the Management Committee in the Official Records, shall be a lien on such Owner's Condominium prior to all other liens and encumbrances, recorded or unrecorded, except the following:

(a) tax and special assessment liens on such Condominium in favor of any assessing unit or special improvement district; and

(b) encumbrances on such Condominium recorded on or prior to the date such notice of lien is recorded, which by law would be a lien prior to subsequently recorded encumbrances.

Such notice of lien shall set forth the amount of the unpaid assessment in accordance with Utah law, and may be recorded in the Official Records. The lien for nonpayment of Common Expenses may be enforced by sale or foreclosure of the Condominium concerned by the Management Committee. Such sale or foreclosure shall be conducted in the same manner as foreclosures of Mortgages or in any other manner permitted by law. In any such sale or foreclosure, the Owner concerned shall pay the costs and expenses of such proceedings and reasonable attorney fees. In the case of foreclosure, the Owner shall pay a reasonable rental for the Unit, and the plaintiff in the foreclosure action may require the appointment of a receiver to collect the rental without regard

to the value of the Mortgage security. The Management Committee may bid on such Unit at foreclosure or other sale and, if successful, hold, lease, mortgage or convey such Unit.

7.10. Certificate of Payment. The Association shall, within ten (10) business days after written demand for payment to the Association, furnish to any Owner liable for Assessments or to the Mortgagee or a potential Mortgagee for such Unit, a written statement or certificate signed by an officer or authorized agent of the Association setting forth whether the Assessments relating to a specified Unit have been paid and the amount of delinquency, if any. A reasonable charge of twenty-five dollars (\$25) (unless the Act allows for a greater amount, in which event the greater amount may be charged) may be collected by the Association for the issuance of each such certificate. Each certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

7.11. Account Payoff Information. The Association may charge a fee for providing account payoff information in connection with the closing of an Owner's financing, refinancing, or sale of a Unit as provided for in Utah Code § 57-8-6.3. The Management Committee may set forth the amount of the fee in the Rules, but such fee shall not exceed the maximum amount allowed pursuant to Utah law. If not otherwise set forth in the Rules, the Account Payoff Fee shall be fifty dollars (\$50.00).

7.12. Audit. Any Owner may at any reasonable time, on appointment and at its own expense, cause an audit or inspection to be made of the books and records maintained by the Association. Each Owner, shall also have the right to review the invoices and bills incurred by the Association.

7.13. Residential Association. The Residential Association may also make general and special assessments of the Residential Unit Owners (only) in accordance with the Residential Association declaration or bylaws. However, any lien for nonpayment of any such assessments in favor of the Residential Association shall at all times be subject and subordinate to the lien to the Association described in this Article.

ARTICLE VIII INSURANCE

8.1. Insurance. The Management Committee shall at all times maintain in force, and pay the premiums for, insurance meeting the requirements set forth in this Declaration, the Act, or other applicable laws, the cost of which shall be part of the Common Expenses.

8.2. Property Insurance. A "master" or "blanket" type policy of casualty and property insurance shall be maintained covering the Project, excluding the Land, foundations and other items normally not covered by such policies. References in this Declaration to a "master" or "blanket" type policy of property insurance are intended to denote single entity condominium insurance coverage. At a minimum, such "master" or "blanket" policy shall afford protection against loss or damage by fire, by other perils normally covered by the standard extended coverage endorsement and by all other perils which are customarily covered with respect to condominium projects similar to the Project in construction, location and use, including, without limitation, all perils normally covered by the standard "all risk" endorsement where such endorsement is available. Such "master" or "blanket" policy shall be in an amount not less than one hundred percent (100%) of the then-current replacement cost of all elements of the Project covered by such policy. The maximum deductible amount for such policy shall be the lesser of Ten Thousand Dollars

(\$10,000) or one percent (1%) of the policy face amount. The name of the insured under such policy shall be the Association. Any loss payable clause shall be in favor of the Association, as a trustee for each Owner and its Mortgagee. Each Owner and its Mortgagee shall be beneficiaries of such policy in the percentage of such Owner's Undivided Interest. Evidence of insurance shall be issued to each Owner and its Mortgagee on request. Any insurance policy shall also provide a waiver of the right of subrogation against Owners individually, that the insurance shall not be prejudiced by any act or omission of any Owner that is not in the control of the Owners collectively and that the policy shall be primary if any Owner has other insurance covering the same loss.

(a) Owner Responsibility for Payment of Deductible. If a loss occurs that is covered by a property insurance policy in the name of the Association and another property insurance policy in the name of an Owner:

(1) The Association's policy provides primary insurance coverage, and:

- (i) the Owner is responsible for the Association's policy deductible; and
- (ii) the Owner's policy, if any, applies to that portion of the loss attributable to the Association's policy deductible.

(2) An Owner that has suffered damage to any combination of a Unit or a Limited Common Area appurtenant to a Unit ("Unit Damage") as part of a loss, resulting from a single event or occurrence, that is covered by the Association's property insurance policy ("a Covered Loss") is responsible for an amount calculated by applying the percentage of total damage resulting in a Covered Loss that is attributable to Unit Damage for that Unit to the amount of the deductible under the Association's property insurance policy; and

(3) If an Owner does not pay the amount required under this Subsection within 30 days after substantial completion of the repairs to, as applicable, the Unit or the Limited Common Area appurtenant to the Unit, the Association may levy an assessment against the Owner for that amount.

(b) Claims Under the Deductible. If, in the exercise of its business judgment, the Management Committee determines that a claim is likely not to exceed the Association's policy deductible: (a) the Owner's policy is considered the policy for primary coverage to the amount of the Association's policy deductible; (b) an Owner who does not have a policy to cover the Association's property insurance policy deductible is responsible for the loss to the amount of the Association's policy deductible; and (c) the Association need not tender the claim to the Association's insurer.

(c) Deductible Notice. The Association shall provide notice to each Owner of the Owner's obligation under Subsection (b) above for the Association's policy deductible and of any change in the amount of the deductible. If the Association fails to provide notice of the initial deductible, it shall be responsible for the entire deductible in case of any loss. If the Association fails to provide notice of any increase in the deductible, it shall be responsible for paying any increased amount that would otherwise have been assessed to the Owner. The failure to provide notice shall not invalidate or affect any other provision in this Declaration.

(d) The Association shall have no obligation to obtain or maintain any insurance covering Owners' personal and real property, and each Owner shall be responsible for obtaining and maintaining such personal and real property insurance.

8.3. Liability Insurance. The Association shall maintain in force and pay the premium for a policy providing commercial general liability insurance coverage for all of the Common Areas and Limited Common Areas and any other areas of the Project that are under the Management Committee's supervision. The coverage limits under such policy shall be in amounts generally required by private institutional Mortgagees for condominium projects similar to the Project in construction, location and use. Nevertheless, such coverage shall be for at least One Million Dollars (\$1,000,000.00) for property damage, bodily injury and death arising out of a single occurrence. Coverage under such policy shall include, without limitation, legal liability of the insureds for property damage, bodily injury and death in connection with the operation, maintenance and use of the Common Areas and Limited Common Areas, and legal liability arising out of lawsuits related to employment contracts of the Management Committee. Additional coverages under such policy shall include protection against such other risks as are customarily covered with respect to condominium projects similar to the Project in construction, location and use, including, without limitation, host liquor liability, contractual and all-written contract insurance, employer's liability insurance, worker's compensation insurance and comprehensive automobile liability insurance. If such policy does not include "severability of interest" in its terms, the policy shall include a special endorsement to preclude an insurer's denial of any Owner's claim because of negligent acts of the Management Committee or any other Owner. If possible, such policy shall provide that it may not be cancelled or materially changed without at least thirty (30) days' prior written notice to the Management Committee.

8.4. Flood Insurance. If any part of the Project is or comes to be located in an area identified by the Federal Emergency Management Agency as having special flood hazards, a "master" or "blanket" policy of flood insurance shall be maintained covering the Building, any machinery and equipment that are not part of the Building but which are owned by the Management Committee and any other Common Areas within the Project in an amount reasonably determined to be appropriate by the Management Committee.

8.5. General Requirements. Each insurance policy maintained pursuant to this Declaration shall be written by an insurance carrier that is licensed to transact business in the State of Utah. No such policy shall be maintained where (a) under the terms of the carrier's charter, bylaws or policy, contributions may be required from, or assessments may be made against, an Owner, a borrower, a Mortgagee, the Management Committee or the Association of Owners, (b) under the terms of the carrier's charter, bylaws or policy, loss payments are contingent on action by the carrier's board of directors, policyholders or members, or (c) the policy includes any limiting clauses (other than insurance conditions) which could prevent the Person entitled (including, without limitation, the Management Committee Members or an Owner) from collecting insurance proceeds. The provisions of this Article shall not be construed to limit the power or authority of the Management Committee to obtain and maintain insurance coverage in addition to any insurance coverage required under this Declaration in such amounts and in such forms as the Management Committee may deem appropriate from time to time. In addition, such provision for insurance shall be without prejudice to the right of each Owner to insure its own Unit for its own benefit. The exclusive authority to adjust losses under all policies obtained by the Management Committee shall be vested in the Management Committee. In no event shall the insurance coverage obtained and maintained by the Management Committee be brought into contribution with insurance purchased by individual Owners or their Mortgagees.

8.6. Applicable Law. This Declaration is specifically subjecting the Association to the insurance requirements and provisions in § 57-8-43 of the Act, and any amendments thereto and thereafter enacted by law. It is the intent of this provision that any future changes to the insurance law applicable to condominium associations shall apply to this Association.

ARTICLE IX DESTRUCTION AND CONDEMNATION

9.1. Definitions. As used in this Article, each of the following terms shall have the meaning indicated:

(a) "Available Funds" means any proceeds of insurance, Condemnation awards, payments in lieu of Condemnation and other uncommitted funds held by the Association, including amounts contained in any reserve or contingency fund. Available Funds shall not include that portion of insurance proceeds legally required to be paid to any Person other than the Association, including a Mortgagee, or that portion of any Condemnation award or payment in lieu of Condemnation payable to an Owner or its Mortgagee for the Condemnation of the Condominium in which it is interested.

(b) "Condemnation" means any action or proceeding in which any interest in the Project is taken for any public or quasi-public purpose by any lawful authority through exercise of the power of eminent domain or by purchase or other means in lieu of such exercise.

(c) "Estimated Costs of Restoration" means the estimated costs of Restoration as determined by the Management Committee in its sole discretion.

(d) "Partial Condemnation" means the occurrence of any Condemnation which is not a Substantial Condemnation.

(e) "Partial Destruction" means the occurrence of any damage or destruction to the Project which is not a Substantial Destruction.

(f) "Restoration" means restoration of the Project to the extent reasonably possible in accordance with this Declaration, the Record of Survey Map and the original plans and specifications for the Project and to substantially the same condition in which the Project existed prior to the damage or destruction concerned, with each Unit and the Common Areas and Limited Common Areas having the same vertical and horizontal boundaries as before, and to the extent not so possible, "Restoration " means restoration of the Project to an attractive, sound and desirable condition.

(g) "Restored Value" means the value of the Project after Restoration.

(h) "Substantial Condemnation" means the occurrence of (i) the Condemnation of all of the Project, or (ii) the Condemnation of part of the Project where the excess of the Estimated Costs of Restoration over Available Funds is twenty-five percent (25%) or more of the estimated Restored Value of the Project.

(i) "Substantial Destruction" means the occurrence of any damage or destruction of the Project where the excess of the Estimated Costs of Restoration over Available Funds is twenty-five percent (25%) or more of the estimated Restored Value of the Project.

9.2. Management Committee Determinations. On the occurrence of any Condemnation of, or damage or destruction to, the Project, the Management Committee shall make a determination as to whether the excess of the Estimated Costs of Restoration over Available Funds is twenty-five percent (25%) or more of the estimated Restored Value of the Project. In making such determinations the Management Committee may (but is not obligated to) retain and rely on one or more qualified appraisers or other professionals.

9.3. Restoration. Restoration of the Project shall be undertaken by the Management Committee promptly without a vote of the Owners on the occurrence of Partial Condemnation or Partial Destruction, and shall also be undertaken on the occurrence of Substantial Condemnation or Substantial Destruction unless the election to not undertake Restoration is consented to by Owners holding in the aggregate at least sixty-seven percent (67%) of the Undivided Interests. Within thirty (30) days after the Management Committee has determined that Substantial Condemnation or Substantial Destruction has occurred, it shall send to each Owner a written description of the Condemnation or the damage or destruction involved and shall, with or without a meeting of the Owners (but in any event in accordance with the applicable provisions of this Declaration), take appropriate steps to determine the preferences of the Owners regarding Restoration. If Condemnation awards, payments in lieu of Condemnation or insurance proceeds actually received by the Management Committee exceed the cost of Restoration when Restoration is undertaken, the excess shall be paid and distributed to the Owners in proportion to their respective Undivided Interests. Payment to any Owner whose Unit is then the subject of a Mortgage shall be made jointly to such Owner and the interested Mortgagee. If the cost of Restoration exceeds Available Funds, all of the Units shall be assessed for the deficiency on the basis of their respective Undivided Interests. If all or any portion of one or more Units is damaged or destroyed and is not the subject of Restoration (even though the Project will continue as a condominium project) or is taken in a Condemnation, the Undivided Interest of such Unit(s) shall immediately be reallocated to the remaining Units in accordance with the method set forth in Section 9.6.

9.4. Sale of Project. Unless Restoration is accomplished pursuant to Section 9.3, the Project shall be sold following the occurrence of Substantial Condemnation or Substantial Destruction. On such sale, condominium ownership under this Declaration and the Record of Survey Map shall terminate and the proceeds of sale and any Available Funds shall be distributed by the Management Committee to the Owners in proportion to their respective Undivided Interests. Payment to any Owner whose Unit is then the subject of a Mortgage shall be made jointly to such Owner and the interested Mortgagee.

9.5. Authority to Represent Owners. The Association, as attorney-in-fact for each Owner, shall represent all of the Owners in any Condemnation or in negotiations, settlements and agreements with the condemning authority for the acquisition of all or any part of the Project. The award in any Condemnation and the proceeds of any settlement related thereto shall be payable to the Association for the use and benefit of the Owners and their Mortgagees as their respective interests may appear. The Association, as attorney-in-fact for each Owner, shall have and is granted full power and authority to restore or to sell the Project and each Unit therein wherever Restoration or sale, as the case may be, is undertaken as hereinabove provided. Such authority

shall include the right and power to enter into any contracts, deeds or other instruments which may be necessary or appropriate for Restoration or sale.

9.6. Reallocation of Interests on Condemnation. If any Unit is taken by Condemnation, the Undivided Interest appurtenant to such Unit shall thereafter be appurtenant to the remaining Units, being allocated to the remaining Units in proportion to their respective Undivided Interests. The court shall enter a decree reflecting the reallocation of the Undivided Interests so produced, and the award shall include, without limitation, just compensation to the Owner of any Unit taken for its Undivided Interest as well as for its Unit. If any portion of any Unit is taken by Condemnation, the court shall determine the fair market value of the portion of the Unit not taken, and the Undivided Interest appurtenant to such Unit shall be reduced in proportion to the diminution in the fair market value of such Unit resulting from such Condemnation. The Undivided Interest thus divested from the Owner of such Unit shall be reallocated among such Unit and the other Units in proportion to their respective Undivided Interests, with any Unit partially taken in Condemnation participating in the reallocation on the basis of its Undivided Interest as reduced in accordance with the preceding sentence, the court shall enter a decree reflecting the reallocation of the Undivided Interest so produced, and the award shall include, without limitation, just compensation to the Owner of any Unit partially taken for that portion of its Undivided Interest divested from it and not reinvested in it as well as for that portion of its Unit taken by Condemnation. If, however, the Condemnation of a portion of any Unit makes it impractical to use the remaining portion of such Unit for any lawful purpose permitted by this Declaration, then the entire Undivided Interest appurtenant to such Unit shall thereafter be appurtenant to the remaining Units, being allocated to the remaining Units in proportion to their respective Undivided Interests, and the remaining portion of such Unit shall thereafter be part of the Common Areas. The court shall enter a decree reflecting the reallocation of Undivided Interests so produced, and the award shall include, without limitation, just compensation to the Owner of such Unit for its entire Undivided Interest and for its entire Unit.

ARTICLE X MORTGAGES

10.1. Mortgagee Protection. The lien or claim against a Condominium for unpaid assessments or charges levied by the Management Committee pursuant to the Act or this Declaration shall be subordinate to any Mortgage recorded on or before the date such assessments or charges become due, and shall not be affected by any sale or transfer of such Condominium, except that a sale or transfer pursuant to a foreclosure of the Mortgage affecting such Condominium or the exercise of a power of sale available thereunder shall extinguish a subordinate lien for such assessments or charges which became payable prior to such sale or transfer. Nevertheless, any such unpaid assessments or charges which are extinguished in accordance with the immediately preceding sentence may be reallocated and assessed to all Condominiums as Common Expenses, including the Condominium that is the subject of such sale or transfer. Any such sale or transfer pursuant to a foreclosure or power of sale shall not relieve the purchaser or transferee of such Condominium from liability for, nor such Condominium from the lien of, any assessments or charges becoming due thereafter or reallocated pursuant to the immediately preceding sentence. The Association shall make available for inspection on request during normal business hours or under other reasonable circumstances to Owners, Mortgagees and insurers and governmental guarantors of any Mortgage, current copies of this Declaration, the Record of Survey

Map, the Rules and Regulations and the books, records and financial statements of the Association. On written request to the Association by any Mortgagee or insurer or governmental guarantor of a Mortgage (which request identifies the name and address of such Mortgagee, insurer or guarantor and the Unit number or address of the Unit encumbered by the Mortgage concerned), such Mortgagee, insurer or guarantor shall thereafter be deemed to be an Eligible Mortgagee or Eligible Insurer or Guarantor, as the case may be, shall be included on the appropriate lists maintained by the Management Committee, and shall be entitled to inspect of any of the following at the office of the Association:

- (a) Condemnation or casualty loss records that affects a material portion of the Project or any Unit on which there is a Mortgage held, insured or guaranteed by such Eligible Mortgagee or such Eligible Insurer or Guarantor;
 - (b) account records of the Unit for which the Eligible Mortgagee holds a Mortgage;
 - (c) copies of insurance policies or fidelity bonds maintained by the Association;
- and
- (d) current copies of the governing documents and other books and records of the Association.

ARTICLE XI AMENDMENT AND CONVERSION

11.1. Amendment. The vote of Owners holding in the aggregate at least sixty-seven percent (67%) of the Undivided Interests shall be required and shall be sufficient to amend this Declaration or the Record of Survey Map. Any amendment so authorized shall be accomplished through the recordation of an instrument executed by a member of the Management Committee. In such instrument the Management Committee member shall certify that the vote required by this Section for amendment has occurred. If a Unit is owned by more than one Owner, the signature of any one Owner shall be sufficient to constitute approval for that Unit under this Section. If a Unit is owned by an entity or trust, the signature of any one officer, trustee, or agent of the entity shall be sufficient to constitute approval for that Unit under this Section. No acknowledgment of any signature shall be required.

11.2. Conversion of Convertible Space.

(a) After obtaining the prior written consent of the Management Committee, which consent shall not be unreasonably withheld, conditioned or delayed, all or any portion of any Commercial Unit may be converted into one or more Units, Common Areas or Limited Common Areas in accordance with this Section. Any such conversion shall be deemed to have occurred at the time of the recordation in the Official Records of the instruments described in Subsections 11.2(b) and (c).

(b) When converting all or any portion of any Convertible Space into one or more Units, Common Areas or Limited Common Areas, the Owner(s) of the Convertible Space concerned shall record in the Official Records, with regard to the structure or portion of the structure constituting such Convertible Space, a supplemental Record of Survey Map showing the following: (i) the location and dimensions of the vertical and horizontal boundaries of each Unit formed out of such space; (ii) an identifying number or other designation and the square footage

of each such Unit; (iii) the location and dimensions of all Common Areas formed out of such space; and (iv) the location and dimensions of all Limited Common Areas formed out of such space and the Unit(s) to which exclusive use of such Limited Common Areas are appurtenant. Such supplemental map shall be certified to its accuracy and compliance with the Act by the land surveyor who prepared or supervised the preparation of such map.

(c) Simultaneously with the recording of such supplemental Record of Survey Map, the Owner(s) of the Convertible Space concerned shall prepare, execute and record an amendment to the Declaration describing the conversion. Such amendment shall assign an identifying number or other designation to, and shall set forth the square footage of, each Unit formed out of such space and shall allocate to each Unit a portion of the Undivided Interest appurtenant to such space. The Undivided Interests of the new Units shall be allocated proportionately between or among the new Units, based on the respective square footage of the new Units. Such amendment shall also describe or delineate any Common Areas or Limited Common Areas formed out of such space, showing or designating the Unit(s) to which any such Limited Common Areas are assigned. If all or any portion of any Convertible Space is converted into Common Areas or Limited Common Areas, then the Undivided Interest and the votes appurtenant to such space or portion so converted (determined on the basis of the number of square feet of floor space so converted to Common Areas or Limited Common Areas) shall be reallocated among, and shall thereafter be appurtenant to, the remaining Units (including Units formed out of such space) in proportion to their respective Undivided Interests. Such reallocation shall be set forth in such amendment. Such amendment only needs to be executed by a member of the Management Committee and the Owner(s) of the Unit containing the Convertible Space.

(d) Following such division, any additional structural separations constructed or installed between the new Units shall become Common Areas. Dividing Units shall not, taken in the aggregate between or among the new Units created, increase or decrease the original voting rights or Undivided Interests set forth in this Declaration. Each Unit formed out of a Convertible Space shall be capable of independent use and shall have direct access to Common Areas and Limited Common Areas intended and sufficient for ingress and egress to and from such Unit.

(e) Any Convertible Space not converted in accordance with this Section, or any portion of any Convertible Space not so converted, shall be treated for all purposes as a single Unit unless and until it is so converted, and the Act and this Declaration shall be applicable to any such space or portion of such space as though the same were a Unit.

(f) This Section shall not be amended without the written consent of all Owners of unconverted Convertible Space.

ARTICLE XII GENERAL PROVISIONS

12.1 Liens Against Units. Subsequent to the recording of this Declaration in the Official Records and while the Project remains subject to the Act, no new lien or encumbrance shall thereafter arise or be created against the Project as a whole. During such period, liens or encumbrances shall arise or be created only against each Condominium in the same manner and under the same conditions in every respect as liens or encumbrances may arise or be created on or against any other separate parcel of real property subject to individual ownership. No labor performed or material furnished with the consent or at the request of an Owner or its agent,

contractor or subcontractor shall be the basis for the filing of a lien against the Condominium of any other Owner not expressly consenting to or requesting the same (except that such express consent shall be deemed to be given by an Owner in the case of emergency repairs) or against any interest in the Common Areas or Limited Common Areas, except the Undivided Interest appurtenant to the Unit of the Owner for whom such labor shall have been performed or material shall have been furnished. Labor performed or material furnished for the Common Areas, if authorized by the Owners or the Management Committee in accordance with the Governing Documents, shall be deemed to be performed or furnished with the express consent of each Owner and shall be the basis for the filing of a lien against each of the Condominiums. If a lien against two or more Condominiums becomes effective, any Owner of any Condominium may remove its Condominium from such lien by payment of the proportional amount attributable to such Condominium. Such individual payment shall be computed by reference to the ratio between the Undivided Interest appurtenant to such Owner's Condominium and the total Undivided Interests of the Condominiums concerned. Subsequent to any payment, discharge or other satisfaction, the Condominium concerned shall be free and clear of the lien so paid, satisfied or discharged. Partial payment, satisfaction or discharge of the proportional amount attributable to any Condominium shall not prevent the lienor from proceeding to enforce its rights against any other Condominium to the extent the entire amount outstanding is not so paid, satisfied or discharged.

12.2 Covenants Run with Land. This Declaration and all of the provisions of this Declaration shall constitute enforceable equitable servitudes, shall run with the land and may be enforced by the Management Committee and any Owner and its successors in interest. If any Person acquires through foreclosure, exercise of the power of sale or other enforcement of any lien or by tax deed the interest of any Owner, the interest acquired shall be subject to all of the provisions of the Governing Documents. In a voluntary conveyance, the grantee of a Condominium shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for its share of the Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the grantor the amounts paid by the grantee. However, any such grantee shall be entitled to a statement from the Management Committee setting forth the amount of the unpaid assessments against the grantor, and such grantee shall not be liable for, nor shall the Condominium conveyed be subject to a lien for, any unpaid assessments against such grantor in excess of the amount set forth in such statement (although the grantor shall remain liable therefor). All Owners and their employees and tenants, all employees of such tenants and any other Person who may in any manner use or occupy the Project shall be subject to the Governing Documents. All agreements, decisions and determinations made by the Management Committee or the Association of Owners in accordance with the Governing Documents shall be binding on the Owners.

12.3 Removal of Project from Act. All (but not less than all) of the Owners may remove the Project from the provisions of the Act by an instrument duly recorded in the Official Records to that effect, provided that the holders of all liens affecting the Condominiums consent or agree by instruments duly recorded that their liens may be transferred to the Undivided Interest of the Owner concerned in the Project. On removal of the Project from the provisions of the Act, the Project shall be deemed to be owned in common by the Owners. The Undivided Interest in the Project owned in common by each Owner shall be equal to the Undivided Interest previously owned by such Owner. The removal provided for in this Section shall not bar the subsequent resubmission of the Project to the provisions of the Act.

12.4 Certain Actions. The Association or any Owner shall have the right to enforce, by proceedings at law or in equity, all restrictions and other provisions now or hereafter imposed by this Declaration, or any amendments thereto, including the right to prevent the violation of any such restrictions, and the right to recover damages and other sums for such violation. The Association or any Owner shall also have the right to enforce by proceedings at law or in equity the provisions of the Bylaws and the Rules and any respective amendments thereto. Without limiting the rights of any Owner, actions may be brought by the Association, in its discretion, on behalf of two or more of the Owners, as their respective interests may appear, with respect to any cause of action relating to the Common Areas, the Limited Common Areas or more than one Unit. Service of process on two or more Owners in any action relating to the Common Areas, the Limited Common Areas or more than one Unit may be made on the Person designated in this Declaration to receive service of process.

12.5 No Waiver. Failure by the Association or by any Owner to enforce any Restriction or provision herein contained, or contained in the Bylaws or the Rules, in any certain instance or on any particular occasion shall not be deemed a waiver of such right of enforcement as to any such future breach of the same or any other Restriction or provision.

12.6 Cumulative Remedies. All rights, options and remedies of the Association, the Owners or the Mortgagees under this Declaration are cumulative, and no one of them shall be exclusive of any other, and the Association, the Owners and the Mortgagees shall have the right to pursue any one or all of such rights, options and remedies or any other remedy or relief that may be provided by law, whether or not stated in this Declaration.

12.7 Severability. Invalidation of any one or a portion of the restrictions or provisions set forth in this Declaration by judgment or court order shall in no way affect any other restrictions or provisions contained herein or therein, which shall remain in full force and effect.

12.8 Attorney Fees. If the Management Committee or any Owner brings suit against the other, or if any Owner brings suit against another Owner to enforce or interpret this Declaration, the prevailing party shall be entitled to recover from the other party the prevailing party's reasonable attorney fees and costs incurred in any such action or in any appeal from such action, in addition to the other relief to which the prevailing party is entitled.

12.9 Notices. The Management Committee shall maintain records setting forth the names and mailing addresses of each Owner, and it shall be the responsibility of each Owner (and not the Management Committee) to insure that such records are current as to its Unit. Any notice or demand to be given by any Person to another under this Declaration shall be given in writing by email, text, personal service, express mail, Federal Express, DHL or any other similar form of courier or delivery service, or mailing in the United States mail, postage prepaid, certified and return receipt requested, and addressed to (a) any Owner in accordance with such records provided by the Owner, and (b) the Association via email or USPS mailing address as designated in the Rules. Any such notice shall be deemed to have been given, and shall be effective, on delivery to the notice address then applicable for the Person to which the notice is directed; provided, however, that refusal to accept delivery of a notice or the inability to deliver a notice because of an address change which was not properly communicated shall not defeat or delay the giving of a notice.

12.10 Priority Over Act. In the event of any conflict between the provisions of this Declaration and the provisions of the Act, including, without limitation, §57-8-31 of the Act (or

any successor or substitute provision), the provisions of this Declaration shall control to the extent permitted by applicable law.

12.11 Construction. This Declaration shall inure to the benefit of, and be binding on the Management Committee, the Association, and each Owner and their respective heirs, personal representatives, successors and assigns. This Declaration shall be governed by, and construed and interpreted in accordance with, the laws (excluding the choice of laws rules) of the State of Utah. Titles and headings of Articles and Sections of this Declaration are for convenience of reference only and shall not affect the construction of any provision of this Declaration. All pronouns shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the identity of the Person to whom reference is made may require. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be valid under applicable law; but, if any provision of this Declaration shall be invalid or prohibited under applicable law, such provision shall be ineffective to the extent of such invalidity or prohibition without invalidating the remainder of such provision or the remaining provisions of this Declaration. The rules of property known as the rule against perpetuities and the rule restricting unreasonable restraints on alienation shall not be applied to defeat any of the provisions of this Declaration.

12.12 Effective Date. This Declaration, and any amendment or supplement thereto, shall take effect upon its being recorded in the Office of the Salt Lake County Recorder.

THIS DECLARATION has been executed by the Management Committee and the Residential Association.

DATED as of the 21 day of December, 2020.

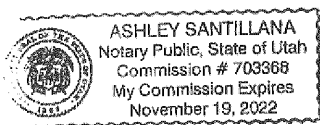
Management Committee Member

By: Reese S. Howell, Jr.

Its: Authorized Representative

State of Utah)
County of Salt Lake) ss.

On the 21 day of December, 2020, personally appeared before me Reese S. Howell, Jr. who by me being duly sworn, did say that she/he is an authorized representative of the Management Committee as defined in the Enabling Declaration, and that the foregoing instrument is signed on behalf of said entity and executed with all necessary authority.



Notary Public Ashley Santillana

EXHIBIT A
Legal Description

All of the lots and units within **Alphagraphics Building Condominiums**, according to the official plat thereof, recorded in the Office of the Salt Lake County Recorder on June 26, 2002 as Entry No. 8275534, in Book 2002P, at Page 161.

Including Units: C-1 through C-3
 410 through 418
 P-1 through P-54
 S-1 through S-4
 Common Area

Parcel Numbers:

16061560100000	16061560110000	16061560120000	16061560130000
16061560140000	16061560150000	16061560160000	16061560170000
16061560180000	16061560190000	16061560200000	16061560210000
16061560220000	16061560230000	16061560240000	16061560250000
16061560260000	16061560270000	16061560280000	16061560290000
16061560300000	16061560310000	16061560320000	16061560330000
16061560340000	16061560350000	16061560360000	16061560370000
16061560380000	16061560390000	16061560400000	16061560410000
16061560420000	16061560430000	16061560440000	16061560450000
16061560460000	16061560470000	16061560480000	16061560490000
16061560500000	16061560510000	16061560520000	16061560530000
16061560540000	16061560550000	16061560560000	16061560570000
16061560580000	16061560590000	16061560600000	16061560610000
16061560620000	16061560630000	16061560640000	16061560650000
16061560660000	16061560670000	16061560680000	16061560690000
16061560700000	16061560710000	16061560720000	16061560730000
16061560740000	16061560750000	16061560760000	16061560770000
16061560780000	16061560790000	16061560800000	

EXHIBIT B

BYLAWS OF THE PLAZA MASTER ASSOCIATION

These BYLAWS OF THE PLAZA MASTER ASSOCIATION are effective upon recording in the Salt Lake County Recorder's Office pursuant to the Utah Condominium Ownership Act and the Utah Revised Nonprofit Corporation Act (referred collectively herein as the "Acts").

RECITALS

A. The Association is organized for all lawful purposes for which a nonprofit corporation may be organized under the Utah Revised Nonprofit Corporation Act, as amended, subject to the terms and conditions contained in the Declaration and Articles of Incorporation.

B. These Bylaws are adopted to complement the Declaration, to further define the rights of the Association and the Owners, to provide for the ability to effectively govern and operate the Association and the project known as the Alphagraphics Building Condominiums.

ARTICLE I DEFINITIONS

1.1 Except as otherwise provided herein or as may be required by the context, all capitalized terms used herein shall have the same meaning and effect as used and defined in the Amended and Restated Declaration of Condominium for Alphagraphics Building Condominiums.

ARTICLE II APPLICATION

2.1 All present and future Owners, occupants, and their invitees and guests, and any other persons who may use the facilities of the Project in any manner are subject to these Bylaws, the Declaration, and Rules. The mere acquisition or rental of any of the Units, or the mere act of occupancy or use of any said Units or the Common Areas will signify that these Bylaws, the Declaration, and the Rules are accepted, ratified, and will be complied with by said persons.

ARTICLE III OWNERS

3.1 **Annual Meetings**. An Annual Meeting of the Owners shall be held each year on a day and at a time established by the Management Committee. The purpose of the Annual Meeting shall be electing Management Committee Members and transacting such other business as may come before the meeting. If the election of Management Committee Members cannot be held on the day designated herein for the Annual Meeting of the Owners, or at any adjournment thereof, the Management Committee shall cause the election to be held either at a Special Meeting of the Owners to be convened as soon thereafter as may be convenient or at the next Annual Meeting of the Owners. The Management Committee may from time to time by resolution change the month, date, and time for the Annual Meeting of the Owners.

3.2 **Special Meetings**. Special Meetings of the Owners may be called by a majority of

the Management Committee, the President, or upon the written request of Owners holding not less than forty percent (40%) of the voting interests of the Association. Any written request for a Special Meeting presented by the Owners shall be delivered to the President and shall include the original signature of each Owner affirmatively supporting such request along with a complete statement of the purpose of the meeting on each page containing signatures. The President shall then call, provide notice of, and conduct a Special Meeting within 45 days of receipt of the request.

3.3 **Place of Meetings.** The Management Committee may designate any place in Salt Lake County that is reasonably convenient for the Owners as the place of meeting for any Annual or Special Meeting. If no designation is made, or if a Special Meeting is otherwise called, the place of the meeting shall be held at the office of the Association or its Manager.

3.4 **Notice of Meetings.** The Management Committee shall cause written or printed notice of the date, time, and place (and in the case of a Special Meeting, the purpose or purposes) for all Owner meetings. Such written or printed notice shall be delivered to each Owner of record entitled to vote at such meeting not more than sixty (60) nor less than ten (10) days prior to the meeting. Such notice may be sent via email, text, hand-delivery, or regular mail. If sent by email or text, such notice shall be deemed delivered and effective on the date transmitted to the Owner's email address or telephone number registered with the Association. If mailed, such notice shall be deemed to be delivered and effective on the date deposited in the U.S. mail if addressed to the Owner's address registered with the Association. Each Owner shall register with the Association such Owner's current email address, phone number, and mailing address for purposes of notice hereunder. Such registered email, phone number, and mailing address may be changed from time to time by notice in writing to the Association. If no address is registered with the Association, an Owner's Unit shall be deemed to be the Owner's registered address and notice to the Unit address may be made by first-class mail or by posting the meeting notice on the front door. An Owner may opt out of receiving notices from the Association via email or text by giving written notice to the Management Committee stating that the Owner will not accept notices by way of email or text.

3.5 **Qualified Voters.** An Owner shall be deemed to be in "good standing" and "entitled to vote" at any meeting of the Association if he or she has fully paid his or her share of any Assessment (together with any interest and/or late fees) at least 48 hours prior to the commencement of the meeting.

3.6 **Record Date for Notice Purposes.** The Management Committee may designate a record date, which shall not be more than sixty (60) nor less than fifteen (15) days prior to the meeting, for the purpose of determining Owners entitled to notice of any meeting of the Owners. If no record date is designated, the last date on which a notice of the meeting is mailed or delivered shall be deemed to be the record date for determining Owners entitled to notice. The persons or entities appearing in the records of the Association on such record date as the Owner(s) of record of Units in the Project shall be deemed to be the Owners of record entitled to notice of the meeting of the Owners.

3.7 **Quorum.** At any meeting of the Owners properly noticed as provided herein, the number of Owners present, either in-person or by Proxy shall constitute a quorum for the transaction of business.

3.8 **Proxies.** At each meeting of the Owners, each Owner entitled to vote shall be entitled to vote in person or by proxy provided, however, that the right to vote by proxy shall exist only where the instrument authorizing such proxy to act shall have been signed by the Owner or

by the Owner's attorney. A proxy may be written on paper or received via email, facsimile, text, or any other electronic or physical means. A signature as required herein shall mean any indication that the document is from and consented to by the person who is purported to have sent it. If a Unit is jointly owned, the instrument authorizing a proxy to act may be executed by any one (1) Owner of such Unit or the Owners' attorneys when duly authorized in writing. A proxy given by an Owner to any person who represents the Owner at meetings of the Association shall be in writing, dated, and signed by such Owner. Such instrument authorizing a proxy to act shall set forth the specific matters or issues upon which the proxy is authorized to act, and may allow the proxy to vote on any issue arising at any particular meeting or meetings. Proxies shall be filed with the Secretary (or with such other officer or person who may be acting as secretary of the meeting) before the meeting is called to order. The Secretary shall record all proxies in the meeting minutes.

3.9 **Votes**. With respect to each matter submitted to a vote of the Owners, each Owner entitled to vote at the meeting shall have the right to cast, in person or by proxy, the number of votes appertaining to the Undivided Interests of each Unit, as shown in the Declaration. The affirmative vote of a majority of the votes entitled to be cast by the Owners present or represented by proxy at a meeting at which a quorum was initially present shall be necessary for the adoption of any matter voted on by the Owner, unless a greater proportion is required by the Articles of Incorporation, these Bylaws, or the Declaration. When a Unit is jointly owned, any Owner may exercise the vote for such Unit on behalf of all Co-Owners of the Unit. In the event of two (2) conflicting votes by Co-Owners of one (1) Unit, no vote shall be counted for that Unit. In no event shall fractional or cumulative votes be exercised with respect to any Unit.

3.10 **Waiver of Irregularities**. All inaccuracies and irregularities in calls or notices of meetings and in the manner of voting, in the form of proxies and the method of ascertaining Owners present, and in the decision and votes of the Management Committee or of the Owners shall be deemed waived if no objection is made either at the meeting or within thirty (30) days of the date of the meeting, or within 30 days of notice of any decision by the Management Committee. The presence of an Owner in person at any meeting of the Owners shall be deemed a waiver on any notice requirements.

3.11 **Action Taken Without a Meeting**. Owners have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of Owners in accordance with the requirements of Utah Code § 16-6a-707 or § 16-6a-709 and any other applicable section of the Acts. Any action so approved shall have the same effect as though taken at an Owner meeting. Ballots or written consents may be obtained via any electronic or physical means including but not limited to email, facsimile, text, or paper document.

ARTICLE IV MANAGEMENT COMMITTEE

4.1 **Powers**. The Project and the affairs and business of the Association shall be managed by the Management Committee. The Management Committee may exercise business judgment and all the powers of the Association, whether derived from the Declaration, these Bylaws, the Articles, or the Acts except such powers that the Declaration, these Bylaws, the Articles, and the Acts vest solely in the Owners.

4.2 **Number and Qualifications**. The Management Committee shall be composed of no fewer than three (3) and no more than five (5) members as elected pursuant to the Bylaws. The total number of Committee members shall be set by resolution of the Committee. One Management

Committee member shall at all times be a Residential Unit Owner. Management Committee members shall be elected at regular Owners' meetings and shall serve two (2) year terms. Only Owners and officers, partners, managers, members and agents of non-individual Owners shall be eligible for Management Committee membership. At each annual Owners' meeting the Undivided Interests appurtenant to a Unit may be voted in favor of as many candidates for Management Committee membership as there are seats on the Management Committee to be filled. On a vacancy prior to the expiration of the relevant term, the remaining Management Committee members shall elect a replacement to sit on the Management Committee until the expiration of the term for which the member being replaced was elected. Unless he forfeits or otherwise loses his seat as provided in this Declaration, a member shall serve on the Management Committee until his successor is elected and qualifies. Management Committee members shall be reimbursed for all expenses reasonably incurred in connection with Management Committee business provided that such expenses are first approved by the Management Committee.

4.3 **Election**. The election of the Management Committee shall be made by the Owners. At such election, the Owners or their proxies may cast, with respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted. The Residential Unit Owners shall separately elect the Management Committee Member that is required to be a Residential Unit Owner pursuant to Section 4.2 above.

4.4 **Term of Office**. Management Committee Members shall serve a term of two (2) years. Each Committee Member shall hold office until their successor has been elected and hold their first meeting. Terms shall be staggered so that at least one Committee Member is elected each year.

4.5 **Regular Meetings**. The Management Committee may hold meetings at the discretion of the Management Committee Members.

4.6 **Special Meetings**. Special meetings of the Management Committee may be called by the President or a majority of Management Committee Members on at least two (2) business days' prior notice to each Management Committee Member. The person or persons authorized to call special meetings of the Management Committee may fix any place, within Salt Lake County, as the place for holding the meeting and shall provide a conference call-in number for Management Committee Members not able to attend in person. Notice shall be given personally, by email, or by telephone, including text message. By unanimous consent of the Management Committee, special meetings may be held without call or notice to the Management Committee Members.

4.7 **Quorum and Manner of Action**. A majority of Management Committee Members shall constitute a quorum for the transaction of business at any meeting of the Management Committee. The act of a majority of the Management Committee Members present at any meeting at which a quorum is present and for which proper notice was provided to the Management Committee Members shall be the act of the Management Committee. The Management Committee Members shall act only as the Management Committee, and individual Management Committee Members shall have no powers as such.

4.8 **Open Meetings**. Except as provided below in (a) through (f), Management Committee meetings shall be open to Owners. The Management Committee may hold a closed executive session during a meeting of the Management Committee if the purpose of the closed executive session is to:

- (a) Consult with legal counsel of the Association to obtain legal advice and discuss legal matters;
- (b) Discuss existing or potential litigation, mediation, arbitration, or an administrative proceeding;
- (c) Discuss a labor or personnel matter;
- (d) Discuss a matter relating to the initial contract negotiations, including the review of a bid or proposal;
- (e) Discuss a matter involving a Person, if the Management Committee determines that public knowledge of the matter would violate the Person's privacy; or
- (f) Discuss a delinquent assessment.

4.9 **Meetings Generally**. The Management Committee may designate any place in Salt Lake County as the place of meeting for any regular or special Management Committee meeting. Management Committee meetings may also be held with Management Committee Members appearing telephonically so long as any Management Committee Member appearing telephonically consents to such appearance. If a Management Committee meeting is held by telephone, the Association shall provide the call-in information such that Owners may call-in to access the meeting.

4.10 **Management Committee Action**. Notwithstanding noncompliance with Sections 4.7 and 4.8, Management Committee action is binding and valid unless set aside by a court of law. A person challenging the validity of a Management Committee action for failure to comply with Sections 4.7 and 4.8, or any other section herein, may not bring the challenge more than sixty (60) days after the Management Committee has approved the minutes recording the Management Committee action.

4.11 **Compensation**. No Management Committee Member shall receive compensation for any services that such member may render to the Association as a Management Committee Member; provided, however, that a Management Committee Member may be reimbursed for expenses incurred in performance of such duties as a Management Committee Member to the extent such expenses are approved by a majority of the other Management Committee Members. Nothing herein contained shall be construed to preclude any Management Committee Member from serving the Project in any other capacity and receiving compensation therefore, so long as approved in advance by a majority of disinterested Management Committee Members.

4.12 **Resignation and Removal**. A Management Committee Member may resign at any time by delivering a written resignation to either the President or the Secretary. Unless otherwise specified therein, such resignation shall take effect upon delivery. A Management Committee Member may be removed at any time, with or without cause, at a Special Meeting of the Owners duly called for such purpose upon the affirmative vote of more than fifty percent (50%) of the entire voting interests of the Association.

4.13 **Vacancies**. If vacancies occur in the Management Committee for any reason (including death, resignation, or disqualification) except removal by the Owners, the Management Committee Members then in office shall continue to act, and such vacancies shall be filled by a majority vote of the Management Committee Members then in office, though less than a quorum. Any vacancy in the Management Committee occurring by reason of removal of a Management

Committee Member by the Owners may be filled by election of the Owners at the meeting at which such Management Committee Member is removed. Any Management Committee Member elected or appointed hereunder to fill a vacancy shall serve for the unexpired term of his predecessor. Except by reason of death, resignation, disqualification, or removal, Management Committee Members shall continue to serve until their successors are elected.

4.14 **Action Without a Meeting**. Management Committee Members have the right to take any action in the absence of a meeting which they could take at a meeting subject to the requirements of Utah Code §16-6a-813 and any other applicable sections of the Acts. Any action so approved shall have the same effect as though taken at a meeting of the Management Committee.

4.15 **Waiver of Notice**. Before or at any meeting of the Management Committee, any Management Committee Member or Owner may waive notice of such meeting and such waiver shall be deemed the equivalent of proper notice. Attendance by a Management Committee Member or Owner at any meeting thereof shall be a waiver of notice by that Management Committee Member or Owner of the time, place, and purpose thereof.

4.16 **Adjournment**. The Management Committee may adjourn any meeting from day to day for such other time as may be prudent or necessary, provided that no meeting may be adjourned for longer than thirty (30) days.

4.17 **Meeting**. For purposes of this Article IV, a Management Committee meeting does not include a gathering of Management Committee Members at which the Management Committee does not conduct and vote on Association business.

ARTICLE V OFFICERS

5.1 **Officers**. The officers of the Association shall be a President, Vice President, Secretary, Treasurer, and such other officers as may from time to time be appointed by the Management Committee.

5.2 **Election, Tenure, and Qualifications**. The officers of the Association shall be elected by the Management Committee at the first Management Committee meeting following each Annual Meeting of the Owners. Each such officer shall hold such office until the next ensuing meeting of the Management Committee following the Annual Owners Meeting and until a successor has been elected and qualified, or until such officer's death, or until resignation, disqualification, or removal in the manner provided in these Bylaws, whichever first occurs. Any person may hold any two (2) or more of such offices, except that the President may not also be the Secretary. No person holding two (2) or more offices shall act or execute any instrument in the capacity of more than one (1) office.

5.3 **Subordinate Officers**. The Management Committee may from time to time appoint such other officers or agents as it may deem advisable, each of whom shall have such title, hold office for such period, have such authority, and perform such duties as the Management Committee may from time to time determine.

5.4 **Resignation and Removal**. Any officer may resign at any time by delivering a written resignation to any member of the Management Committee or to any managing agent of the Association. Unless otherwise specified therein, such resignation shall take effect upon delivery.

Any officer may be removed and replaced upon the affirmative vote of a majority of the Management Committee at any time, with or without cause.

5.5 **Vacancies.** If any vacancy shall occur in any office by reason of death, resignation, removal, disqualification or any other cause, or if a new office shall be created, such vacancies or newly created offices may be filled by majority vote of the Management Committee at any regular or special Management Committee meeting.

5.6 **President.** The President shall be the chief executive of the Association. The President shall preside at meetings of the Management Committee and at meetings of the Owners. At the meetings, the President shall have all authority typically granted to the person presiding over the meeting including but not limited to: (1) the right to control the order of the meeting, (2) the right to arrange for the removal of any disruptive Owner or person, (3) the right to impose and enforce reasonable rules and procedures related to the meeting such as those found in "Robert's Rules of Order" or "The Modern Rules of Order". The President shall sign on behalf of the Association all conveyances, mortgages, documents, and contracts, and shall do and perform all other acts and things as required by the Management Committee.

5.7 **Vice President.** The Vice President shall perform all duties of the President when the President is absent or unable or refuses to act at any meeting of the Management Committee or Owners. The Vice President shall perform such other duties as required by the Management Committee.

5.8 **Secretary.** The Secretary shall keep the minutes of the Association and shall maintain such books and records as these Bylaws, the Declaration, Rules, or any resolution the Management Committee may require such person to keep. The Secretary shall also act in the place of the Vice President in the event of the President's and Vice President's absence or inability or refusal to act.

5.9 **Treasurer.** The Treasurer shall have the custody and control of the funds and financial accounts of the Association, subject to the action of the Management Committee, and when requested by the President, shall report the state of the finances of the Association at each Owner meeting and at any meeting of the Management Committee. The Treasurer shall perform such other duties as required by the Management Committee.

5.10 **Compensation.** No officer shall receive compensation for any services rendered to the Association as an officer, provided, however, that an officer may be reimbursed for expenses incurred in performance of such duties as an officer to the extent such expenses are approved by the Management Committee.

ARTICLE VI COMMITTEES

6.1 **Designation of Committees.** The Management Committee may designate committees as it may deem appropriate in carrying out its duties, responsibilities, functions, and powers. No member of such committee shall receive compensation for services rendered to the Association as a member of the committee; provided, however, that the committee member may be reimbursed for expenses incurred in performance of such duties as a committee member to the extent that such expenses are approved by the Management Committee. A committee shall not have any powers, duties, or responsibilities beyond those specifically assigned by the Management Committee. The Management Committee may terminate any committee at any time.

6.2 **Proceeding of Committees.** Each committee designated hereunder by the Management Committee may appoint its own presiding and recording officers and may meet at such places and times and upon such notice as such committee may from time to time determine. Each such committee shall keep a record of its proceedings and shall regularly report such proceedings to the Management Committee.

6.3 **Quorum and Manner of Acting.** The presence of committee members constituting at least a majority of the authorized membership of such committee (but in no event less than two (2) members) shall constitute a quorum for the transaction of business, and the act of a majority of the members present at any meeting at which a quorum is present shall be the act of such committee. The members of any committee designated by the Management Committee hereunder shall act only as a committee, and the individual members thereof shall have no powers as such. A committee may exercise the authority granted by the Management Committee.

6.4 **Resignation and Removal.** A committee member may resign at any time by delivering a written resignation to the Management Committee, or the presiding officer of such committee. Unless otherwise specified therein, such resignation shall take effect upon delivery. The Management Committee may at any time, with or without cause, remove any member of any committee designated by it thereunder.

6.5 **Vacancies.** If any vacancy shall occur in any committee designated by the Management Committee due to disqualification, death, resignation, removal, or otherwise, the remaining members shall, until the filling of such vacancy by the Management Committee, constitute the then total authorized membership of the committee and, provided that two (2) or more members are remaining, may continue to act. Such vacancy may be filled at any meeting of the Management Committee.

ARTICLE VII INDEMNIFICATION

7.1 **Indemnification.** In addition to the indemnification provisions and requirements set forth in the Declaration, no Management Committee Member, officer, or committee member shall be personally liable for any obligations of the Association or for any duties or obligations arising out of any acts or conduct said Management Committee Member, officer, or committee member performed for or on behalf of the Association. The Association shall and does hereby indemnify and hold harmless each person who shall serve at any time as a Management Committee Member, officer, or committee member of the Association, as well as such person's heirs and administrators, from and against any and all claims, judgments and liabilities to which such persons shall become subject, by reason of that person having heretofore or hereafter been a Management Committee Member, officer, or committee member of the Association or by reason of any action alleged to have been heretofore or hereafter taken or omitted to have been taken by him as such Management Committee Member, officer, or committee member and shall reimburse any such person for all legal and other expenses reasonably incurred in connection with any such claim or liability; provided that no such person shall be indemnified against or be reimbursed for or be defended against any expense or liability incurred in connection with any claim or action arising out of such person's willful or intentional misconduct. The rights accruing to any person under the foregoing provisions of this Section shall not exclude any other right to which such person may lawfully be entitled, nor shall anything herein contained restrict the right of the Association to indemnify or reimburse such person in any proper case, even though not specifically